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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:22-cv-24066-KMM

GRACE, INC., et al.,  
Plaintiffs,  
vs.  
CITY OF MIAMI,  
Defendant.

## DEPOSITION BY VIDEOCONFERENCE

OF

DR. CAROLYN ABOTT

Monday, October 16th, 2023  
9:03 a.m. to 1:29 p.m.  
By Videoconference

Taken on behalf of the Defendant by  
Mayra Texeira, Shorthand Reporter and Notary Public  
in and for the State of Florida at Large, pursuant  
to Notice of Taking Deposition in the above cause.

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1 REMOTE APPEARANCES:

2  
3  
4 On behalf of the Plaintiffs: (Via Videoconference)  
5 DECHERT LLP  
6 Cira Center-2929 Arch Street  
7 Philadelphia, Pennsylvania 19104  
8 BY: CHRISTOPHER J. MERKEN, ESQUIRE

9 On behalf of the Defendant: (Via Videoconference)

10 GRAY | ROBINSON  
11 301 S. Bronough Street  
12 Suite 600  
13 Tallahassee, Florida 32301  
14 BY: GEORGE T. LEVESQUE, ESQUIRE

15 Also Present:

16 Nicholas Warren, Esquire/ACLU

17 - - - - -

18 I N D E X

19 Witness Direct Cross

20 Dr. Carolyn Abbott 3,117 115

21 E X H I B I T I N D E X

22 Defendant's Description Page No.

23 Exhibit 1 Trial Report 123

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1                   THE COURT REPORTER: Dr. Abott,  
2                   can you show your ID by holding it up to  
3                   the camera for me?

4                   (Witness presented government-issued identification  
5                   and identity was verified.)

6                   THE COURT REPORTER: Thank you. Please  
7                   raise your right hand. Do you swear that the  
8                   testimony you will give in this cause will be  
9                   the truth, the whole truth, and nothing but the  
10                  truth so help you God?

11                  THE WITNESS: Yes.

12                  Thereupon:

13                   DR. CAROLYN ABOTT  
14                  was called as a witness and, having been first duly  
15                  sworn remotely, was examined and testified as  
16                  follows:

17                   DIRECT EXAMINATION

18                  BY MR. LEVESQUE:

19                  Q. Good morning, Doctor. My name is  
20                  George Levesque. I'm with Gray Robinson and we  
21                  represent the City of Miami in this case. Before we  
22                  get started, can you please state your full name for  
23                  the record.

24                  A. Sure. It's Carolyn Abott. Carolyn Beth  
25                  Abott.

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1 Q. And have you ever been deposed before?

2 A. I have not.

3 Q. Have you ever given testimony live in  
4 court before?

5 A. No.

6 Q. Okay. I'm going to go over a few of the  
7 ground rules for this deposition this morning. One  
8 of the ground rules is, particularly because we're  
9 on Zoom and when people talk over each other it can  
10 get a little confusing, the format is I'll be asking  
11 questions, you'll be providing answers. If you could  
12 wait until I finish my question and then provide  
13 your answer, that will help the court reporter, who  
14 is taking down everything that we say, transcribe  
15 things accurately. If I ask a question and you  
16 provide an answer, I'm going to assume that you  
17 understood the question that I asked and are  
18 answering the question that I asked. Is that fair?

19 A. Yeah.

20 Q. At various points your counsel may object  
21 to questions that I ask. We may have a colloquy  
22 related to his objection. But if -- unless he's  
23 instructed you not to answer, I'll probably come  
24 back to you and say if you understand the question  
25 you can answer. And then if you understand the

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1 question, please answer. If you don't ask me to  
2 repeat or rephrase and I can do my best to do that.  
3 Is that fair?

4 A. Yes.

5 Q. Also, because we're on Zoom this might not  
6 be as big of a problem, but there are going to be  
7 certain questions that might be a yes answer or a no  
8 answer. For the purposes of creating a record I'll  
9 need you to answer audibly. If you shake your head  
10 or nod your head, I can see it on video what you  
11 mean, but it makes it a little more difficult for  
12 the court reporter to take that down. I might say,  
13 well, is that a yes or is that a no. I'm not doing  
14 it to be rude. I'm doing it to make sure that we're  
15 getting an accurate reflection of the record.

16 This morning, are you on any medication  
17 that would impair your ability to testify truthfully  
18 or recall your report in this matter?

19 A. No.

20 Q. How did you -- how did you --

21 MR. MERKEN: George, just quickly --

22 A. I am a Type I diabetic so I'm on insulin,  
23 but at any point if my blood sugar starts going low  
24 I'll need to take a break just so I can have some  
25 glucose.

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1           Q. Understood. And this is not intending to  
2 be the Spanish Inquisition or anything like that. If  
3 at any point you need to take a bathroom break or if  
4 you feel your blood sugar is dropping, please let us  
5 know. We can take a break. The one thing that I  
6 would ask -- obviously, if you're in a medical  
7 emergency we can address that, but the one thing  
8 that I would ask is if there is a question pending  
9 that we answer the question pending and then we can  
10 take a break. Is that fair?

11           A. Sure.

12           Q. How did you come to offer an expert  
13 opinion in this case?

14           A. I was contacted by Nick Warren.

15           Q. And how do you know Mr. Warren?

16           A. He contacted me. I had not known him  
17 beforehand.

18           Q. Okay. And what did Mr. Warren ask you to  
19 do?

20           A. He asked me if I was available to serve as  
21 an expert witness on this case versus the City of  
22 Miami and the drawing of the maps for the districts.

23           Q. And did you agree to become an expert in  
24 this case then?

25           A. I did.

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1 Q. And how much have you been compensated to  
2 date for your services?

3 A. I don't know to date.

4 Q. What is your hourly rate?

5 A. \$450.

6 Q. Can you ballpark how many hours you've  
7 worked on it?

8 A. I can't. It's been over the course of a  
9 year or so.

10 Q. Is it more than 10,000?

11 A. No.

12 Q. Is it more than 5,000?

13 MR. MERKEN: George, objection to  
14 form. Are you asking the number of hours  
15 or the dollar amount?

16 MR. LEVESQUE: I'm asking -- I'm  
17 sorry. Fair point. I'll rephrase.

18 Q. Have you billed for your services in this  
19 matter?

20 A. I have billed. Yes.

21 Q. Have you billed more than \$5,000 in  
22 services for this matter?

23 A. I don't know the answer to that. I'd have  
24 to look at my records.

25 Q. So as we sit here today you have no idea

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1 how many hours that -- or how many dollars you've  
2 billed for your services?

3 A. I can't give you a dollar amount right  
4 now. It's been several, you know, checks that have  
5 been written over the course of a year.

6 Q. So -- and, again, I'm not looking for an  
7 exact dollar amount, I'm looking for a ballpark  
8 range. Would it be more than \$5?

9 A. Yes. It would be more than \$5.

10 Q. Okay. Would it be less than \$100,000?

11 A. Yes. It would be less than \$100,000.

12 Q. Okay. So are you able to narrow it between  
13 more than \$5 and less than \$100,000?

14 A. I would have -- it would be a guess. I  
15 couldn't tell you for sure. But it's certainly less  
16 than \$50,000, certainly less -- not certainly. I  
17 believe it's less than \$20,000.

18 Q. Which attorneys have you communicated with  
19 concerning this case?

20 A. I have communicated with Nick Warren. I've  
21 communicated with Christopher. And Neil. And Kerri.  
22 And I can't recall everyone's last name.

23 Q. And have they provided you with any facts  
24 or data that you have considered in forming your  
25 opinions?

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1 A. Yes.

2 Q. What facts did they provide you with?

3 A. They have told me the generals of the case  
4 and what the case was about. They have provided me  
5 with maps.

6 Q. Did they provide you with any data?

7 A. No.

8 Q. Now, when you reference the generals of  
9 the case, what are the generals of the case to the  
10 extent that you can recall?

11 A. The generals of the case are that after  
12 the 2020 census, the City of Miami needed to  
13 redistrict for population reasons. Their city  
14 commission districts and the plaintiffs believe that  
15 the districts were not drawn in such a way as to  
16 take into account proper concerns, particularly with  
17 regard to race and ethnicity.

18 Q. When you say that the districts were not  
19 drawn to take into account proper concerns regarding  
20 race and ethnicity, can you explain that?

21 A. I just need to say that they -- they were  
22 sorting certain areas and precincts based upon race  
23 and ethnic concerns and considerations.

24 Q. Did they provide any other background  
25 information to you that you relied on in forming

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1 your opinions?

2 A. No.

3 Q. What did you do to prepare your work and  
4 your opinions in this case?

5 A. Can you clarify what you mean by prepare?

6 Q. Sure. You have drafted a couple of  
7 different reports that have been provided to us.  
8 What did you do in preparation of those reports?

9 A. Do you mean beyond collecting data and  
10 analyzing the data? I'm still not sure what you  
11 mean by prepare.

12 Q. Well, let's back up. What did plaintiffs  
13 ask you to do in this case?

14 A. So as I wrote in my first expert report I  
15 was asked to use data from the census and from the  
16 ACS, the American Community Survey, to look at  
17 voting patterns within individual precincts and  
18 portions of precincts to determine whether and to  
19 what extent race can explain the shapes of the 2022  
20 enacted plan and the changes between the 2013 and  
21 the 2022 enacted plan. So that was what they asked  
22 me to do.

23 Q. Okay. And what did you do to fulfill that  
24 request?

25 A. I downloaded data from the census and from

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1 the ACS. What else? I received city commission  
2 maps, incumbent addresses. And then other data was  
3 downloaded from Verse, which is on Harvard's  
4 website. And then another expert witness, Dr. Moy,  
5 provided me with additional results. Once that data  
6 was downloaded I was able to analyze the data, look  
7 for patterns in the data, map them on to shape files  
8 of maps and precincts, and come to conclusions based  
9 on my analysis.

10 Q. And what methodology did you use to  
11 perform your analysis?

12 A. Standard methodology. Looking at data.  
13 Looking at patterns. At the very early stage looking  
14 at relationships before and after the maps were  
15 enacted, the 2013 to 2022 maps.

16 Q. Did you review any news articles?

17 A. I did see a handful of news articles.

18 Q. And the handful of news articles that  
19 you're referencing, were those provided by counsel?

20 A. They were not.

21 Q. Is that research that you conducted  
22 yourself?

23 A. It was.

24 Q. Do any of those news articles factor in to  
25 your opinions that are detailed in your report?

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1 A. No.

2 Q. Did you do any historical research related  
3 to the City's redistricting plans?

4 A. No.

5 Q. Is the CV that is attached to your report  
6 current?

7 A. I don't have which CV you have.

8 Q. Okay. Give me one second. What I am going  
9 to do is I am going to share in the Dropbox on the  
10 chat your trial report. Let me see if I can --

11 MR. MERKEN: George, we also have a  
12 copy of it in paper here if that's  
13 easier.

14 MR. LEVESQUE: Is it the trial  
15 report?

16 MR. MERKEN: Can I direct her to  
17 that? Is that all right?

18 MR. LEVESQUE: Yes. That's fine.

19 MR. MERKEN: So this is at the end of  
20 the second expert report. This is the CV  
21 right here. So if you go to the end of  
22 that, it's after page 22 of the second  
23 report.

24 THE WITNESS: I see it. Okay.

25 MR. LEVESQUE: Okay. If we could go

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1 off the record very quickly.

2 (Discussion off the record.)

3 BY MR. LEVESQUE:

4 Q. Dr. Abott, you have your trial report in  
5 front of you?

6 A. Yes. Yes.

7 Q. Are you able to refer to that and let me  
8 know if that reflects the latest and greatest for  
9 your work that is contained in your CV?

10 A. It is not the most up to date, but it  
11 contains -- I mean, it's accurate. It's just --  
12 there are a few additions since this printed.

13 Q. Okay. What are the things that would be  
14 added to this?

15 A. Well, my book is under contract. I have  
16 additional research in progress. Additional working  
17 papers. Additional invited talks and presentations.  
18 Additional grants.

19 Q. And were those all commenced after this  
20 report was provided to us?

21 A. Correct.

22 Q. If I could ask you to refer to page 3 of  
23 your report.

24 A. Is this the first report?

25 Q. Yes.

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1 A. Okay. Yeah.

2 Q. Under sources and methodology you say, in  
3 preparing this report I've relied on my personal  
4 knowledge gathered through my years of researching,  
5 studying, and publishing.

6 Is there any knowledge or experience that  
7 you would not have relied on in terms of forming  
8 your opinions that are not detailed in your CV?

9 A. No.

10 Q. In the next paragraph you say, I also  
11 utilized the standard methodology that political  
12 scientists use when investigating precinct and  
13 census data.

14 What exactly do you mean by standard  
15 methodology?

16 A. I suppose I just mean what political  
17 scientists do when they download and analyze data  
18 from the census, and election data, which is what I  
19 described earlier, looking for patterns.

20 Q. Is there a name for the methodology that  
21 you've used?

22 A. I don't -- I don't believe -- I would say  
23 it's quantitative, but nothing more specific than  
24 that.

25 Q. Are there academic journals or other

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1 sources that one could go to to understand what  
2 standard methodology you're referring to?

3 A. I don't believe there would be articles  
4 written specifically about how to analyze election  
5 data in particular. This analysis is typically  
6 contained -- an explanation analysis is typically  
7 contained in every article, a thorough explanation  
8 of how the analysis was done, how the data was  
9 collected. But, generally speaking, if you want a  
10 primer on quantitative analysis, that's a more  
11 general field that has been applied to election  
12 analysis.

13 Q. Further down in that paragraph you  
14 reference that you relied on the 2019 American  
15 Community Survey five-year estimates. Would you  
16 agree that the 2019 American Community Survey  
17 five-year estimate data is an estimate?

18 A. Yes.

19 Q. When were you first engaged to work on  
20 this matter?

21 A. I would have to go back and look at my  
22 e-mails.

23 Q. Is there a reason why you used the 2019  
24 ACS data versus the 2021 ACS data?

25 A. I was asked by counsel to use that data. I

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1 can speculate about why, but I was asked to use that  
2 data.

3 Q. Were you instructed not to use the 2021  
4 ACS data?

5 A. No. No. No.

6 Q. What is your understanding of the  
7 difference between the 2019 and the 2021 ACS data?

8 A. They take place in different years. Their  
9 estimates are different points in time.

10 Q. Is that the only difference?

11 A. I don't know.

12 Q. You mentioned that the city commission  
13 district maps and incumbent addresses were provided  
14 to you by counsel. For the incumbent addresses, do  
15 you recall what those were?

16 A. The actual address?

17 Q. Yes.

18 A. No.

19 Q. Well, for example, in District 3, if we  
20 wanted to know where the commissioner in District 3  
21 lives, how would we go about finding that in terms  
22 of your consideration for your report?

23 A. Sorry. Can you rephrase that? I couldn't  
24 hear you.

25 Q. Sure. If we wanted to know what your

Page 17

1 understanding of the address for the commissioner  
2 for District 3, how would we figure that out?

3 A. My understanding of that?

4 Q. Yes.

5 A. How would you know -- how would you figure  
6 it out? I suppose you would have to ask me. I  
7 mean --

8 Q. Okay. Do you know where the commissioner  
9 in District 3 lives?

10 A. I -- I could point to a general part of  
11 the map. I couldn't tell you his actual -- his exact  
12 address.

13 Q. Well, and I guess my question is, you  
14 don't detail where the commissioners lived in your  
15 report. Correct?

16 A. Correct.

17 Q. So if I wanted to verify that, yes, in  
18 fact that is the commissioner's address, how would I  
19 go about doing that?

20 A. Verify what is his address?

21 Q. What you believe to be his address.

22 A. It's not contained in the report so I  
23 suppose you would have to ask me.

24 Q. Okay. Do you have notes that reflect that  
25 information?

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1           A. I don't have notes. I have data. I have a  
2 data file with their addresses.

3           Q. What format is that data file in?

4           A. An Excel spreadsheet.

5           Q. And that was provided to you by counsel?

6           A. It was.

7           Q. Why was the incumbent address information  
8 important?

9           A. The incumbent address information was  
10 important because we wanted to make sure that any  
11 potential redistricting didn't take an incumbent  
12 commissioner out of their district and perhaps pit  
13 two incumbents against one another in a new  
14 district.

15           Q. You also indicate on page 3 of your report  
16 that you downloaded statewide election results from  
17 Harvard's Dataverse; is that correct?

18           A. Correct.

19           Q. What years did you download?

20           A. It was the governor's election, so I  
21 believe that was 2018. But I'm not -- I can't -- I'm  
22 not positive.

23           Q. Did you look at any other election results  
24 for any other years?

25           A. I believe in my second report I refer to

1 the presidential election in 2020.

2 Q. Other than the governor's election or the  
3 presidential election, did you look at any other  
4 races in performing your analysis?

5 A. As I mentioned, Dr. Moy provided me  
6 results for the 2020 county mayor race. I looked  
7 very briefly at that.

8 Q. Okay. Other than these three races, did  
9 you look at any other races?

10 A. I did not.

11 Q. What was important or probative about the  
12 governor's 2018 race?

13 A. The governor's race was a partisan race  
14 unlike the city commission elections. And there was  
15 an alternative claim or argument to be made that the  
16 districts were drawn in such a way as to bolster  
17 partisan concerns. So by looking at an actual  
18 partisan election I could show what evidence there  
19 was for or against that.

20 Q. Would the same also be true for your  
21 examination of the presidential election?

22 A. Correct.

23 Q. What about for the mayoral race?

24 A. The county mayoral race or the mayoral  
25 race?

Page 20

1 Q. The county mayoral race.

2 A. Yes. Yes.

3 Q. Now, would you agree that partisanship is  
4 closely aligned with ideology?

5 A. Yes.

6 Q. So that if there are politically  
7 conservative commissioners, regardless of whether  
8 they're Republicans or Democrats in a nonpartisan  
9 race, that might be a factor in terms of how the  
10 districts were drawn. Would you agree with that?

11 A. No.

12 Q. Why not?

13 A. Partisanship is a label that is used as a  
14 cue for voters. It is a way to organize political  
15 activity at the government and at the electoral  
16 level. Ideology is an indication of a preference or  
17 a policy and the type of policy that gets enacted  
18 that is related to but not identical to  
19 partisanship.

20 Q. Is it your position that commissioners  
21 might not be in touch with their constituents to  
22 understand the ideology that they hold regardless of  
23 their partisan affiliations?

24 A. I'm sorry. Can you rephrase the question?

25 Q. Sure. Would you agree with the premise

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1       that commissioners might have a good understanding  
2       of the ideology of their constituents?

3           A.     No. I can't speculate on that.

4           Q.     So you have no idea whether city  
5       commissioners may understand the ideology of their  
6       constituents?

7           A.     I have no idea.

8           Q.     Okay. Did you examine any of the materials  
9       that were provided in any of the elections that you  
10      examined?

11       A.     The material -- I don't know what  
12      materials were provided you're referring to.

13       Q.     You referenced that the city commission  
14      races were nonpartisan. Correct?

15       A.     Correct.

16       Q.     Do you know if any of the candidates for  
17      those races utilized language other than Republican  
18      or Democrat that might be associated with Republican  
19      or Democrat?

20       A.     Are you referring to their campaigns?

21       Q.     Yes.

22       A.     No. I don't know anything about their  
23      campaigns.

24       Q.     So if any of the candidates ran on  
25      antisocialist agendas, you wouldn't have any

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1 knowledge of that. Correct?

2 A. No knowledge.

3 Q. Would you agree that an antisocialist  
4 agenda would be associated with, generally speaking,  
5 a Republican party?

6 A. I wouldn't -- I don't want to say -- no. I  
7 don't agree with that necessarily.

8 Q. Okay. So it's your understanding that  
9 Republican endorse socialism?

10 A. No.

11 Q. Are you aware of Republican candidates who  
12 speak out against socialism?

13 A. None in particular. I couldn't give you  
14 any names.

15 Q. But are you aware of whether that is  
16 something that many Republican candidates often  
17 speak against?

18 A. To the same extent Democrats do. I don't  
19 have any distinction between the two.

20 Q. Now, you indicated that Dr. Moy provided  
21 you with election results for the 2020 county mayor  
22 race. Why was this information important to you?

23 A. I was also asked to take a look at -- if  
24 it was helpful to me to also look at the county  
25 mayor race.

Page 23

1 Q. Was it helpful to you?

2 A. I didn't find it necessary.

3 Q. Have you ever drawn a redistricting plan?

4 A. For an official capacity?

5 Q. Yes.

6 A. No.

7 Q. Have you ever drawn a redistricting plan  
8 as an academic exercise?

9 A. Sure.

10 Q. How many times?

11 A. Oh, I couldn't tell you. I don't know.

12 Q. More than five?

13 A. Sure.

14 Q. More than ten?

15 A. I don't know the answer to this question.

16 Sorry.

17 Q. Before you commenced your analysis of the  
18 city maps, did you do an analysis of the city's  
19 population?

20 A. The size of the city and the size of the  
21 districts? Population size?

22 Q. Sure. We'll start with population size.

23 A. Yes. I was asked to look at the size of  
24 the city and the districts.

25 Q. Did you also look at the racial and ethnic

Page 24

1 makeup of the districts?

2 A. Yes.

3 Q. Did you look at the racial and ethnic  
4 makeup of the city as a whole?

5 A. Yes.

6 Q. Did you look at the racial and ethnic  
7 makeup of where they live within the geographic  
8 boundaries of the city?

9 A. Insofar as that I analyzed the districts  
10 and the precincts and the blocks within the  
11 district.

12 Q. When you're talking about your analysis of  
13 the precincts and the blocks, were those only for  
14 the areas that were moved or did you look at that  
15 for the entire city area?

16 A. I did not look at precincts within the  
17 core to the same extent. I looked at precincts on  
18 the boundaries of the districts.

19 Q. When you were examining that information  
20 related to the precincts and blocks related to the  
21 core, did you look at the political performance of  
22 those areas?

23 A. What do you mean by political performance?

24 Q. Whether they perform for a Republican or a  
25 Democrat.

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1           A. I looked at the districts as a whole. Yes.  
2 The cores of the district.

3           Q. Did you review any of the transcripts in  
4 this matter?

5           A. No. No.

6           Q. Are you able to summarize your opinions in  
7 this case?

8           A. My conclusions?

9           Q. Yes.

10          A. Sure. My conclusions were that precincts  
11 and portions of precincts were moved with racial and  
12 ethnic considerations in mind and that voters were  
13 sorted into districts based on racial and ethnic  
14 considerations.

15          Q. What were you told about the map drawing  
16 process for the districts?

17          A. That the commission was responsible for  
18 doing it. I was told that there was a three to two  
19 final approval of the 2022 enjoined map. And I was  
20 told that it was two Republican commissioners and  
21 one democratic commissioner that voted the majority  
22 for approval of the enjoined map -- the 2022  
23 enjoined map.

24          Q. Do you know which two Republican  
25 commissioners voted for the map?

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1 A. I can't recall at this time.

2 Q. Do you recall which democratic  
3 commissioner voted for the map?

4 A. I believe it was District 5's  
5 commissioner.

6 Q. Do you know District 5's commissioner's  
7 name?

8 A. I don't.

9 Q. Are you aware of whether the commission  
10 hired outside attorneys and people with experience  
11 in map drawing to draw the commission maps?

12 A. The only person I'm aware of is the  
13 consultant -- consultant De Grandy.

14 Q. And how are you aware of Mr. De Grandy?

15 A. I was given versions of his map that was  
16 presented to the commission.

17 Q. Did you read any of Mr. De Grandy's  
18 comments about his presentation of either the 2022  
19 plan or the 2023 plan?

20 A. No.

21 Q. Would that information be important to you  
22 in forming your opinions?

23 A. No.

24 Q. Why not?

25 A. I have the data. I don't need -- I don't

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1 need any additional comments.

2 Q. So is it -- I just want to be clear. Is it  
3 your position that the data tells the entire story?

4 A. Yes.

5 Q. So if there are other alternative  
6 explanations as to why a line was moved, those would  
7 be irrelevant for the purposes of your analysis; is  
8 that correct?

9 A. It depends -- it depends on the  
10 alternative explanation, but if -- if it can be  
11 shown to be an inadequate explanation based on the  
12 data, then that's all I need.

13 Q. But at this point the only alternative  
14 explanations are the ones that are relayed to you by  
15 counsel; is that correct?

16 A. The ones that I -- I list in my report.

17 Q. Did you review or analyze any of the  
18 plaintiffs' plans that were presented?

19 A. No. I was given a map if I wanted to look  
20 at it, but I did not review or discuss it in my  
21 report.

22 Q. Do you recall which plan it was?

23 A. It was after the second -- it was when I  
24 was writing my second report. So it was after the --  
25 after the '22 enjoined plan. I don't know exactly

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1 which map. There was a lot of maps.

2 Q. Were you aware that plaintiffs have  
3 proposed four alternative plans in this litigation?

4 A. I was not.

5 Q. If I could ask you to flip back to page 1  
6 of your report. Your introductory sentence says, the  
7 enacted Miami city commission districting plan is  
8 the byproduct of many decades of racialized  
9 commission maps.

10 What is your basis for that statement?

11 A. I was given the 2003 map and the 1997 map,  
12 I believe it was. And they look, at first glance,  
13 quite similar to the 2013 map and to the enjoined  
14 2022 map.

15 Q. Okay. But I guess -- you're making the  
16 statement here that the commission maps are decades  
17 of racialized commission maps as a starting point.  
18 What is your basis for concluding that the  
19 commission maps were racialized as a starting point?

20 A. The cores. The districts as they have  
21 existed for many decades have not changed  
22 significantly except for pieces on the border. The  
23 portions that have not changed have continued to be  
24 highly segregated based on race and ethnicity.

25 Q. In your mind, is that improper?

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1           A. I have no opinion on that.

2           Q. So just to be clear, you don't have an  
3         opinion on whether the historic maps from 1997  
4         through 2013 considered -- improperly considered  
5         race in the drawing of those maps?

6           A. I cannot say anything about proper or  
7         improper.

8           Q. Okay. So you're just observing that from  
9         1997 through 2013 there were maps that had five  
10        districts, three of which would likely reliably  
11        elect a Hispanic candidate and one of which would  
12        reliably elect a Black candidate? Would that be --

13          A. Correct.

14          Q. And that same conclusion would be true for  
15        the 2022 plan. Correct?

16          A. Correct.

17          Q. And the 2023 plan?

18          A. Is that the proposed remedy which is the  
19        2023 plan you're referring to?

20          Q. Yes. So -- I'll try to refer to the plans  
21        that the City passed by the year that they were  
22        enacted. So we've got 1997, 2003, 2013, 2022, and  
23        2023 for the plans.

24          A. So the proposed --

25          Q. Sorry. Go ahead.

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1           A.     The proposed remedy was passed then?

2     That's currently enacted? I don't know.

3           Q.     Have you examined the 2023 plan?

4           A.     As the proposed remedy, yes, I have in my  
5 second report.

6           Q.     On page 2 of your report -- let me back  
7 up. Going back to page 1, in the first paragraph,  
8 second sentence you state, changes made from the  
9 2013 enacted plan are also racially motivated,  
10 though these changes are minimal compared to the  
11 inherited racialization from previous plans. You  
12 state that they were minimal.

13                 How did you measure that?

14           A.     I looked at the overall change to the  
15 districts.

16           Q.     Would you agree that the overall change to  
17 the districts was not significant?

18           A.     Yes.

19           Q.     Do you have any opinions on how the city  
20 plan could have or should have been drawn?

21           A.     Only to the extent of what I outline in my  
22 report that there were alternative precincts and  
23 portions of precincts that could have been moved  
24 instead of the ones that were moved.

25           Q.     On page 2 you state, based on my

1 examination I reached the conclusion that areas  
2 moved from one district to another were done so on  
3 the basis of race and that other areas could have  
4 been moved without further segregating the districts  
5 by race.

6 Is it your opinion that there were moves  
7 that further segregated the districts by race?

8 A. There were moves that exacerbated the  
9 situation, yes.

10 Q. When you say exacerbated, does that mean  
11 it made them more or less segregated?

12 A. More segregated.

13 Q. And how would you measure that?

14 A. I looked at the precincts that were moved  
15 compared to the precincts that were not moved that  
16 were nearby.

17 Q. From a quantifying standpoint how does  
18 that translate to the 2020 plan district numbers?

19 A. The 2020 plan? Which is the 2020 plan?

20 Q. I'm sorry. 2022.

21 A. Okay. Sorry. Can you repeat the question?

22 Q. Sure. If you were to quantify that  
23 exacerbation, how is that going to be reflected in  
24 the 2022 plan numbers?

25 A. You have to compare what the

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1 hypothetical -- the counter possibility was and if  
2 you compare it to what could have been moved versus  
3 what was moved -- because there had to have been  
4 changes because of population equality reasons.  
5 Right? There had to be changes made. The changes  
6 that were made compared to the changes that could  
7 have been made made the districts more segregated  
8 than they otherwise would have been.

9 Q. Did you draw any comparisons related to  
10 the changes that were made to the benchmark  
11 districts?

12 A. Can you repeat the question?

13 Q. Did you draw any conclusions related to  
14 the changes that were made benchmark districts? And  
15 when I refer to the benchmark districts I'm  
16 referring to the 2013 plan.

17 A. Sorry. Draw any conclusions about changes  
18 that were made to the 2013 districts. I mean, my  
19 conclusions were that the changes were made based on  
20 racial and ethnic considerations.

21 Q. Would you agree that if the three Hispanic  
22 districts were drawn in such a way that the Hispanic  
23 voting age population dropped in each of those  
24 districts, that that undercuts the idea that the  
25 districts were racially exacerbated?

1           A. I don't understand the question. Can you  
2 repeat it, please?

3           Q. We'll move along. I think it might help  
4 when we start getting into some of the examples. In  
5 that paragraph you say, I also have observed the  
6 commission's practice of splitting precincts along  
7 racial lines.

8                         What is your basis for that statement?

9           A. The basis for my statement is that  
10 precincts were split and the ones that remained in  
11 districts versus the ones that were moved into new  
12 districts looked different in terms of their race.  
13 Each split looked different.

14           Q. Do you know if the map drawers paid  
15 attention to precincts when they were drawing the  
16 map?

17           A. I don't know.

18           Q. If they'd completely ignored precincts  
19 because the new map would be re-precincted [sic],  
20 does that change your opinion as to their  
21 motivation?

22           A. No.

23           Q. Is it your belief that they intentionally  
24 considered the splitting of precincts as they were  
25 drawing the plan?

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1 A. I don't know.

2 Q. If I could ask you to flip to the bottom  
3 of page 3. There you say that City of Miami had  
4 inherited districts maps from 2013 and beyond that  
5 exhibited clear patterns of racial segregation.

6 What is your understanding of how the  
7 Voting Rights Act might apply to the city's  
8 districts?

9 A. I don't know.

10 Q. Are you familiar with the Voting Rights  
11 Act?

12 A. I have heard of it. Yes.

13 Q. Are you aware of whether the Voting Rights  
14 Act requires there to be a district that will  
15 perform for a Black candidate based upon the city's  
16 ethnic and racial makeup?

17 A. I'm not a lawyer. I don't know the  
18 specifics.

19 Q. Well, wouldn't whether a district needs to  
20 be drawn in such a way so that it performs for a  
21 Black candidate be relevant for your opinions?

22 A. No.

23 Q. Why not?

24 A. That wasn't what I was asked to do.

25 Q. So if the law requires that the district

1       be drawn in such a way that it performs for a Black  
2       candidate which would necessarily require the  
3       consideration of whether there's a sufficient Black  
4       population in the district, that wouldn't be  
5       relevant for your analysis that examined race?

6           A.     I wasn't asked to take that into  
7       consideration.

8           Q.     On page 4 you state, majorities tend to be  
9       exaggerated in districts and identified Districts 1,  
10      3, and 4 for Hispanics and District 5 for Black  
11      voters.

12                  Are you aware of other ways the districts  
13       could be drawn that would not exaggerate the  
14       minority -- I'm sorry -- the minorities in those  
15       districts?

16           A.     I don't know.

17           Q.     That's not something that you explored?

18           A.     It wasn't what I was asked to do.

19           Q.     Are you aware of what the Hispanic voting  
20       age population is for the city of Miami?

21           A.     I'm not.

22           Q.     Are you aware of what the Black voting age  
23       population is for the city of Miami?

24           A.     I believe it was 15 percent.

25           Q.     In paragraph 4 of your report, you state,

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1 only one district, District 5, had equal or greater  
2 Black VAP under the 2013 plan.

3                   What are you referring to there?

4                   A. Sorry. Which page are you on?

5                   Q. Page 4.

6                   A. Yeah. I see it. Okay. What am I referring  
7 to in that sentence?

8                   Q. Yes.

9                   A. That District 5 was the only district that  
10 had equal or greater than 14.8 percent Black VAP.

11                  Q. Do you know what it was in the 2013 plan?

12                  A. Do I know what what was in the 2013 plan?

13                  Q. What the Black VAP is in the 2013 plan?

14                  A. For the city?

15                  Q. For District 5.

16                  A. 52.9 percent.

17                  Q. Do you know what the Black VAP was in the  
18 2022 plan for District 5?

19                  A. 15.3 percent.

20                  Q. So at least in terms of drawing that new  
21 district for the 2022 plan, the Black VAP decreased.  
22 Correct?

23                  A. Yes.

24                  Q. And if the Black VAP decreased from the  
25 2013 plan, that didn't exacerbate the racial

1 segregation, did it?

2 A. Again, it depends upon what you're  
3 comparing it to. You can't compare it to the 2013  
4 plan; you have to compare it to what needed to be  
5 changed because of population reasons.

6 Q. Well, is there a predetermined change that  
7 needs to occur for population reasons?

8 A. You needed to decrease the size of  
9 District 2.

10 Q. And how overpopulated was District 2?

11 A. Under the 2013 plan there were 117,281  
12 individuals compared to the other districts that had  
13 somewhere between 80- and 83,000 people.

14 Q. And District 5 needed to gain population.  
15 Correct?

16 A. It was the second largest so it could have  
17 gained some or it could not have gained some, but  
18 District 2 needed to decrease.

19 Q. You'd mentioned that the proper comparison  
20 is not to the 2013 benchmark, but to the  
21 alternatives that could have been considered. Why is  
22 that?

23 A. Because the 2013 plan couldn't remain as  
24 it was.

25 Q. But why wouldn't the 2013 plan be a proper

1 comparator if you were utilizing the cores of  
2 existing districts?

3 A. The changes that were made needed to be  
4 compared to other possible changes. There was no  
5 version of the world in which you could have had the  
6 exact same map in 2013.

7 Q. I understand. I guess where I'm going at  
8 is, why does it have to be alternative options to  
9 what they considered versus we start from the  
10 benchmark, that's the plan that we need to change,  
11 we have a preset racial makeup, and you compare  
12 it -- is it making it more racially segregated from  
13 the 2013 plan or less racially segregated from the  
14 2013 plan? Why would that not be a proper analysis?

15 A. Because I reject the idea that the 2013  
16 plan is something to compare a new plan to when you  
17 cannot have the 2013 plan in 2022.

18 Q. Are you aware of whether courts examined  
19 the benchmark plan to assess what needs to be done  
20 or whether a replacement plan is sufficient for  
21 legal reasons?

22 A. No. I am not aware.

23 Q. Did counsel for plaintiffs direct you to  
24 not make comparisons to the benchmark plan?

25 A. No.

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1           Q. On page 5, the last full paragraph at the  
2 bottom of that page, in the third sentence -- I'll  
3 go ahead and read for completeness. You reference  
4 Table 3 depicts the racial VAP composition after  
5 redistricting. And that sets up your comparison  
6 that you're comparing the 2022 plan to the 2013  
7 plan. Correct?

8           A. I don't know if it sets up the comparison.  
9 It's a list of -- it's a description.

10          Q. Okay. The second sentence, overall Black  
11 VAP in District 2 decreased slightly as a percentage  
12 total of VAP from 7.7 to 7.2 percent as did Hispanic  
13 VAP from 52 percent to 49 percent after  
14 redistricting.

15           Are you comparing the 2022 plan with the  
16 2013 plan in that sentence?

17          A. I'm comparing the -- I'm comparing the  
18 Black and Hispanic VAP from the 2013 plan in  
19 District 2 to the 2022 plan in District 2.

20          Q. And then you say, this was due to the fact  
21 that white VAP increased from 34 percent to  
22 37 percent after redistricting.

23           From a geographic standpoint, do you know  
24 where those white voters lived?

25          A. No, I don't.

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1 Q. Did you do any analysis of where -- strike  
2 that.

3 Did you do any analysis of whether there  
4 were concentrated areas of minority population?

5 A. In District 2?

6 Q. Anywhere in the map.

7 A. No. I don't -- I don't know specifically.  
8 I mean, I looked at -- I looked at individual  
9 precincts and if I go back and look at my data I can  
10 tell you if I looked where, but yes.

11 Q. But that's not something that you've done  
12 to date in terms of looking at the map as a whole to  
13 figure out where there might be concentrations of  
14 minority voters?

15 A. I looked at portions of districts and  
16 precincts to see the racial composition of those  
17 areas.

18 Q. But just for those precincts along the  
19 borders. Correct?

20 A. I did not, generally speaking, look at  
21 individual precincts within the cores of the  
22 districts, the internal portions of the district.

23 Q. Okay. So in the next sentence you state,  
24 on the whole, however, there was no statistical  
25 difference between voting age population or VAP by

1 race before and after redistricting at the district  
2 level.

3               If I understand that correctly, that means  
4 that even though they redrew these districts, there  
5 is still going to be three Hispanic districts, a  
6 Black district, and a plurality district. Correct?

7               A.     Correct.

8               Q.     And your examination goes to a more  
9 granular level to do that data analysis. Is my  
10 understanding there correct?

11              A.     Correct.

12              Q.     Now, jumping into your analysis made  
13 between the changes for the 2013 and 2022 plan,  
14 starting with District 1. You would agree that  
15 District 1 had to gain population. Correct?

16              A.     Yes.

17              Q.     Do you know if District 1 assumes  
18 District 2?

19              A.     It does not.

20              Q.     Okay. And in responding to that question,  
21 what are you referring to that is in front of you?

22              A.     My expert report.

23              Q.     Is that the only thing that you have in  
24 front of you at this time?

25              A.     Correct.

1 Q. Do you also have a computer in front of  
2 you?

3 A. I do not.

4 Q. Okay. Is there a tablet?

5 MR. MERKEN: George, that's the  
6 controls for the video screen.

7 MR. LEVESQUE: Thank you, Chris. I  
8 was wondering what that was.

9 MR. MERKEN: It's just the Zoom  
10 controls.

11 BY MR. LEVESQUE:

12 Q. So if District 1 needed to gain  
13 population, how would it get population as part of  
14 the map drawing process?

15 A. District 2 has to give precincts or areas  
16 of the district to the joining -- the districts that  
17 it touches, so District 5, 3, and 4 and then those  
18 districts have to give portions of their district to  
19 District 1, which they all touch.

20 Q. So for the purposes of the city  
21 commission's work, District 2 could shed population  
22 theoretically to one district and then you could  
23 rotate the population all the way around or it could  
24 give a little bit to all three districts and some  
25 variation of those three districts would need to

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1 donate to District 1. Is that fair?

2 A. That sounds right.

3 Q. And there are lots of different ways that  
4 the commission could make those population  
5 adjustments; would you agree?

6 A. Yes.

7 Q. From a race and ethnicity standpoint, what  
8 is the makeup of District 1?

9 A. Just generally speaking?

10 Q. Yes.

11 A. It's a Hispanic super majority district.

12 Q. On that same page you say, the changes  
13 under the 2022 enacted plan resulted in District 1  
14 growing both in absolute and relative terms. And  
15 you indicated is now the second largest district  
16 after District 2.

17 What is the significance of that to you  
18 for your analysis?

19 A. It just means that it gained more  
20 population than maybe it absolutely needed to if you  
21 want to keep the rank ordering of the districts the  
22 same.

23 Q. Are you aware of anything that would  
24 require one to keep the rank ordering of the  
25 districts the same?

1 A. No. No.

2 Q. Is there anything in your opinions that  
3 suggests that not keeping the rank ordering is  
4 problematic?

5 A. No.

6 Q. In the next paragraph you say, changes  
7 made to District 1 occurred in tandem with changes  
8 only to District 5.

9 Is that problematic?

10 A. No. Not in and of itself.

11 Q. If we could scroll down to Table 4. And I  
12 think this reflects your analysis of the precincts;  
13 is that correct?

14 A. These are splits, precincts splits.

15 Q. Okay. Are you aware of anything that  
16 requires a map drawer to use precincts when drawing  
17 plans?

18 A. No.

19 Q. If the city was going to be re-precincted  
20 [sic] as part of the 2020 census process, do you  
21 think it would still be important for the map drawer  
22 to utilize precincts in drawing?

23 A. I don't know.

24 Q. If the city map drawer ignored precincts,  
25 is that problematic to you?

1           A. If he did so in a uniform way, probably  
2 not.

3           Q. When you say in a uniform way, can you  
4 explain that?

5           A. If all of the portions that were moved  
6 were completely split and every -- in every way,  
7 every time there was a move, I would say that would  
8 be evidence that they did not take into account  
9 precincts when they moved. The portions of the  
10 district.

11          Q. And what would be something that would  
12 indicate that they didn't do it in a uniform way?

13          A. If they split districts -- if they split  
14 precincts sometimes and didn't split precincts other  
15 times.

16          Q. And there is no chance that that could be  
17 explained simply by where they were drawing the  
18 district lines and where the precinct lines fall?

19          A. I don't know. I didn't look at that.

20          Q. So in looking at your Table 4, if I  
21 understand correctly, you've got a District 1 split  
22 column and a District 5 split column. Does that  
23 indicate which precincts were placed into which  
24 districts?

25          A. Yeah. Some of them remained in those

1 districts, some of them were moved. But after --  
2 under the 2022 enacted plan, the District 1 split  
3 column are splits that remained or were moved into  
4 District 1 and the District 5 split column were  
5 precinct splits that were either moved into  
6 District 5 or remained in District 5.

7 Q. Okay. And looking at Precinct 531 for  
8 District 1, in Area 6, 27.2 percent Black population  
9 either remained or was moved into District 1. Would  
10 that have increased or decreased the BVAP in  
11 District 1?

12 A. I don't know. It depends on the other  
13 changes that were made.

14 Q. Well, that change by itself, do you know  
15 if 27.2 percent is higher or lower than the existing  
16 percentage for District 1?

17 A. It's higher.

18 Q. So that would have a tendency to increase  
19 the BVAP in District 1. Correct?

20 A. Again, it depends on what other changes  
21 you make.

22 Q. Sure. But in a vacuum, 27.2 percent higher  
23 than the current BVAP in District 1, that would have  
24 the effect of increasing it if all other things  
25 remained equal. Correct?

1           A. 27.2 percent Black VAP is higher than the  
2 District 1 Black VAP under the 2013 plan. But as  
3 I've said, other changes need to be made. So none of  
4 this could have happened in a vacuum.

5           Q. And we'll go through the rest of the  
6 changes. I just want to make sure we're  
7 understanding what's going on with both the district  
8 drawing and your analysis.

9                 The second figure, 44.9 percent represents  
10 white voting age population. Correct?

11           A. Correct.

12           Q. And all other things being equal, 44.9  
13 percent would have boosted the white voting age  
14 population in District 1. Correct?

15           A. 44.9 percent white VAP is higher than the  
16 white VAP in District 1 under the 2013 plan.

17           Q. And 71.1 percent is lower -- well, let me  
18 back up. I'm getting ahead of myself.

19                 71.1 percent is referring to the Hispanic  
20 voting age population in Precinct 531 that is either  
21 kept or moved into District 1. Correct?

22           A. Yes. Correct.

23           Q. And that is lower than the existing  
24 Hispanic voting age population in District 1.  
25 Correct?

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1 A. Under the 2013 plan. Correct.

2 Q. And under the 2022 plan.

3 A. Correct.

4 Q. Now, you used percentages here. Do you  
5 know how many voters were in Precinct 531 that we're  
6 talking about?

7 A. I do not have the total population for  
8 531. No.

9 Q. For any of your precinct analyses in your  
10 first report, do you list the number of voters that  
11 are impacted by the move?

12 A. I do have some of this in the appendix.

13 Q. And is that the table that begins on  
14 page 25?

15 A. Yes.

16 Q. And you've got a series of tables there  
17 that begin on 25 and run to page 29?

18 A. Correct.

19 Q. Looking at Precinct 523 for District 1,  
20 27.4 percent would be a higher Black voting age  
21 population than what was included in the 2024 plan.  
22 I'm sorry. 2022 plan. Correct?

23 A. For which district?

24 Q. For District 1.

25 A. Yes.

1           Q. And looking at Precinct 529, 18.7 percent  
2 would be a higher Black voting age population than  
3 what is included in District 1 in the 2022 plan.  
4 Correct?

5           A. Correct.

6           Q. And the same would also be true for  
7 Precincts 512 and 522?

8           A. Correct.

9           Q. So every single precinct there would have  
10 boosted the Black voting age population in a  
11 Hispanic district. Correct?

12          A. Those areas that were moved had higher  
13 Black VAP than the district that they were moved  
14 into under the 2013 and 2022 plan.

15          Q. So those changes, then, would not have  
16 exacerbated the racial segregation in comparison to  
17 the 2013 benchmark. Is that fair?

18          A. Those changes were not made in a vacuum.  
19 So, as I've said, I am not comparing what could have  
20 been made -- what was made to the 2013 plan. I'm  
21 comparing what was made to the 2013 plan in  
22 comparison to what could have been made to the 2013  
23 plan.

24          Q. Well, certainly they could have placed  
25 those areas for that Black population in District 5

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1 to further boost the Black population in District 5,  
2 couldn't they?

3 A. District 5 had to get rid of population if  
4 they were being given more population by District 2.  
5 As I note in my report, District 5 gave some areas  
6 to District 1 and then District 1 turned around and  
7 gave some areas to District 5. So it wasn't -- they  
8 weren't even a net donor. They interchanged areas.

9 Q. I guess my question is, if they were doing  
10 it for racial reasons, wouldn't you expect that if  
11 District 1 was looking to shed Black voters and  
12 boost Hispanic voters, wouldn't you expect the BVAP  
13 that is being shifted to District 1 to be lower than  
14 what is reflected?

15 A. No.

16 Q. Why not?

17 A. Because they had to change their map and  
18 they had to change it in such a way that they were  
19 using areas of the city that were on their border.  
20 So they had to find areas that may not have had as  
21 low Black population as the core or lower than the  
22 core.

23 Q. What are the areas that could have been  
24 moved for District 1 that would -- let me back up.

25 Regarding the changes to District 1, how

1 was race a factor?

2 A. I don't understand. Can you clarify the  
3 question?

4 Q. Sure. Based upon your analysis of the  
5 data, you've reached conclusions about what was done  
6 to District 1 and why it was done to District 1. So  
7 my question is, what precisely was done to  
8 District 1 and why was it done?

9 A. District 1 took on areas from District 5  
10 that were lower in Black population, Black VAP, than  
11 other areas that remained in District 5. And that's  
12 why I have these splits in this table to show you  
13 that precincts -- I'm using as the unit of analysis  
14 here because it's a -- we know that that area is  
15 close together -- the splits are very close to one  
16 another because they're contained in the same  
17 precinct. So there was a decision -- for instance,  
18 for Precinct 531 there was a decision to take that  
19 portion of that area into District 1 rather than the  
20 part that remained or was moved into District 5  
21 which had a higher Black population, higher Black  
22 VAP.

23 Q. Okay. But that's not necessarily true for  
24 all of the precincts, is it?

25 A. I looked at all of the precincts that were

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1 moved.

2 Q. Okay. Let's look at Precinct 529.

3 A. Yes.

4 Q. There is a percentage -- 18.7 percent was  
5 moved to District 1 or stayed in District 1 whereas  
6 for District 5, 13.3 percent Black voting age  
7 population either stayed or was moved to District 5.

8 A. Correct.

9 Q. That's inconsistent with the narrative  
10 that Black voting age population was boosted in  
11 District 5 and Hispanic population was boosted in  
12 District 1, isn't it?

13 A. This is -- 529 is one district where the  
14 splits do not reflect the pattern I am referring to.  
15 It is a small difference, 18.7 percent Black VAP  
16 compared to 13.3 percent Black VAP. So a 5.4  
17 percentage point difference compared to some of  
18 these other precincts where the difference in  
19 percentage points is almost 40 percentage points.

20 MR. MERKEN: George, can we take a  
21 quick five-minute break when you're at a  
22 good place. It's been about 90 minutes.

23 MR. LEVESQUE: Sure. We'll take a  
24 break now. It's 10:30. Let's be back at  
25 10:35.

1 (Recess in proceedings.)

2 BY MR. LEVESQUE:

3           Q. Dr. Abott, going back to page 7 of your  
4 report analyzing the 2022 plan, Table 4, you've  
5 identified five precincts where you have identified  
6 where the decisions were made deliberately on the  
7 basis of race. Do I understand what is supposed to  
8 be reflected in that report?

9 A. Yes.

10 Q. Did you examine all of the precincts that  
11 were swapped between D-5 and D-1?

12 A. Yes.

13 Q. Are these the only five that you  
14 identified where that was going on?

15           A.     If those were the only ones listed then I  
16 believe those were the -- those were the areas that  
17 were moved.

18 Q. Okay. And if I can refer you to page 25  
19 and 26 where in the area description we're talking  
20 about areas that were moved from D-5 to D-1 starting  
21 on page 25 first. About halfway down you've got  
22 Riverside there moved from D-5 to D-1.

A. This is -- this is the February 7th draft.

24 Q. Okay. So is the draft -- if we wanted to  
25 look at the 2022 enacted plan we should be looking

1 at the report starting on page 26?

2 A. That's comparison of the February 7th  
3 drafted to the enacted plan.

4 Q. Okay. So if we wanted to do a comparison,  
5 then, of the benchmark plan, the 2013 plan to the  
6 enacted plan, the '22 plan, we should look at  
7 page 27?

8 A. Yes.

9 Q. And so that plan also moved Precinct 530.  
10 Correct?

11 A. Yes.

12 Q. And that's not one that you identified as  
13 being racially problematic. Correct?

14 A. Table 4 looks at just precincts that were  
15 split. Just areas that were split. I used the  
16 split -- I used the split precincts as a way to look  
17 at areas that were very close to one another that  
18 were in a preexisting geographical unit, although I  
19 don't know if that's relevant, but they were areas  
20 that were very close to one another. And reasonably  
21 good comparisons to make with one another. If you  
22 look at whole precincts you can compare any other  
23 precinct on the border as an option. These were  
24 areas that had natural comparisons that I wanted to  
25 make.

1           Q. Well, and I guess my question is, in  
2 looking at the list of precincts that were moved  
3 from D-5 to D-1, the only one that is identified in  
4 your Table 4 that was actually moved from D-5 to  
5 D-1 is 531; is that correct?

6           A. No. The first row of the table are areas  
7 that were moved from D-5 to D-1 as well. So the  
8 precinct splits at 512 and 522.

9           Q. Okay. So all together there were three  
10 precincts that were moved from D-5 to D-1 that are  
11 detailed in your table?

12          A. They were not moved wholly. These were  
13 three precincts that were split that D-5 took on  
14 from D-1.

15          Q. But the precincts that were split in 529  
16 and 523 in Table 4, those were areas that were  
17 already in D-1. Correct?

18          A. Correct. The split was moved into D-5.

19          Q. Dr. Abott, I'm going to try and share my  
20 screen here. Are you able to see that document?

21          A. I can see it. I can't -- I don't think I  
22 can read it that well. My eyes aren't the best,  
23 but --

24          Q. Let me see if I can enlarge it here. Is  
25 that helpful?

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1           A. Yeah. You have to scroll down for me to  
2 see the whole thing. But yeah.

3           Q. And I'm going to represent to you that  
4 this is Resolution R21-0485 that the city commission  
5 adopted providing directions to its map drawers on  
6 how they should rank criteria and address their map  
7 drawing duties.

8           Are you able to read that criteria?

9           A. Yes.

10          Q. Was this information conveyed to you in  
11 terms of how the city instructed its map drawers to  
12 go about drawing maps?

13          A. No.

14          Q. Do you see anything on there that reflects  
15 compactness?

16          A. Maybe E, but I don't know.

17          Q. Where it says maintain communities of  
18 interest in neighborhoods where feasible?

19          A. Correct.

20          Q. Is it your understanding that that's the  
21 functional equivalent of compactness in  
22 redistricting parlance?

23          A. No.

24          Q. That would be two different things.

25          Correct?

1           A. Sorry?

2           Q. That would -- those would be two different  
3 things. Correct?

4           A. The way I understand it, yes.

5           Q. Were you aware that the city commission  
6 rejected compactness as a redistricting criteria?

7           A. I was not aware.

8           Q. If the city commission directed its map  
9 drawers to not worry about compactness when drawing  
10 district lines, but to factor in normal things like  
11 voter cohesion or maintaining the core of existing  
12 districts, are those decision points that would  
13 impact any of your opinions?

14          A. No.

15          Q. On page 7 of your report underneath Table  
16 4 you indicated that the areas that were chosen were  
17 deliberately done on the basis of race. Is that  
18 statement in reference to the precinct splits that  
19 were -- that you describe above?

20          A. Yes.

21          Q. You would agree, though, that there were  
22 other -- I'm sorry. You would agree that there were  
23 other changes that were made that were not  
24 necessarily reflected in those particular precincts.  
25 Correct?

1           A.    Correct.

2           Q.    So what is reflected there are just the  
3        precincts where you were able to identify race as a  
4        factor in the changes. Is that fair?

5           A.    What's reflected here are areas that to my  
6        political scientist mind represent good comparisons  
7        and good counter hypotheticals for what could have  
8        been done versus what was done.

9           Q.    Well, you used an interesting description  
10      there. Counter hypotheticals for what could have  
11      been done. What other things for District 1 could  
12      have been done that would not have taken race into  
13      account?

14          A.    There were other precincts or other  
15      portions of precincts that could have been moved  
16      that had different breakdowns of race and ethnicity  
17      that would have not been as -- the degree of -- the  
18      size of the Black VAP would have been lower, for  
19      instance, in other places that could have remained  
20      in District 5.

21          Q.    Okay. We're talking about District 1,  
22      though, right now.

23          A.    Right. So areas that had higher Black VAP  
24      than the ones that were moved into District 1.

25          Q.    Well, all of the areas -- all of the

1 precinct areas that we've identified there all had  
2 higher Black voting age population than what was  
3 reflected in District 1. Correct?

4 A. Correct. But they did not have higher  
5 Black VAP compared to other possible precincts that  
6 could have been moved in.

7 Q. And I guess what -- did you identify what  
8 those area possible precincts are in your report?

9 A. In this table it looks at the other half  
10 for the other portion of the precinct that was not  
11 moved.

12 Q. So if I understand correctly, then, the  
13 argument is that it could have incorporated some of  
14 those other precincts. From a map drawing process,  
15 did you look at where those precincts were  
16 geographically in relation to the precincts that  
17 weren't moved?

18 A. They were all on the border. Right? You  
19 had to find areas that were on the border of these  
20 districts. So I looked at other precincts or  
21 precinct splits that were also on the borders.

22 Q. Well, let's look at Area 8 of your report.  
23 I'm going to put it up on the screen if I can. Are  
24 you able to see that?

25 A. Yes.

1           Q.    Okay. So we've got Precincts 512 and 522  
2 in Area 8. When we look at Area 8 that is in  
3 question here, are you able to see that?

4           A.    Yes.

5           Q.    Geographically in that area, do you know  
6 where Precincts 512 and 522 are located?

7           A.    I couldn't tell you from this map.

8           Q.    Did you look at whether the precincts that  
9 you were comparing are reflected geographically such  
10 that where the City drew the line your precinct with  
11 a higher Black voting age population would be in the  
12 yellow portion or the blue portion or purple?

13          A.    The area with the higher Black population  
14 remained in the yellow portion, which is District 5.

15          Q.    So if it wanted to include that portion,  
16 it would need to go further into District 5.  
17 Correct?

18          A.    Not necessarily. It could have gone to the  
19 right. To the east.

20          Q.    Did you do analysis of that block to the  
21 east?

22          A.    It's not in the report.

23          Q.    Do you know if the areas of Precincts  
24 512 or 522 are to the east?

25          A.    I'm sorry?

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1 Q. Do you know --

2 A. Say it again.

3 Q. Do you know if the areas of Precincts 512  
4 and 522 are to the east?

5 A. I don't. I don't. They might be. I don't.

6 Q. From a redistricting standpoint, is there  
7 anything unusual about the way those lines were  
8 drawn, in your opinion?

9 A. Probably decreases a little bit of  
10 compactness the way they were drawn.

11 Q. But that wouldn't be a problem if the city  
12 commission decided not to use compactness as a  
13 measure that it was going to observe. Correct?

14 A. Correct.

15 Q. At the bottom of page 8 and the top of  
16 page 9 of your report it indicates three areas that  
17 were moved from District 2 stand out. The first area  
18 is 10 and 11 that was given to District 5. This  
19 section of donated precincts had a lower white  
20 voting age population, a greater Hispanic and Black  
21 VAP compared to the areas that were not moved.

22 What is the significance of that  
23 observation?

24 A. The significance is that areas that were  
25 moved compared to areas that weren't moved shored up

1 preexisting breakdowns of race in the districts.

2 Q. Do you recall what the Hispanic population  
3 in that district was in District 2 in the 2013 plan?

4 A. 51.9 percent.

5 Q. And after the 2022 plan was enacted it was  
6 less than that. Correct?

7 A. Yes.

8 Q. Is that a statistically -- I'm sorry. What  
9 was the percentage difference between 2013 and 2022?

10 A. 2013 was 51.9 percent, 2022 was  
11 48.6 percent.

12 Q. Is that a statistically different drop for  
13 that district?

14 A. I don't know.

15 Q. Were you asked to reach an opinion whether  
16 that was a statistically significant drop?

17 A. No.

18 Q. And if I understood some of our earlier  
19 dialogue, when it comes to race and ethnicity on a  
20 map-wide basis for each district, there are not  
21 statistically significant changes that were made to  
22 the map. Correct?

23 A. Across all five districts.

24 Q. What about in relation to any particular  
25 district?

1 A. I don't know.

2 Q. Now, the areas of the map that we're  
3 talking about, Area 10 and 11 -- bring that back up.  
4 Are you able to see that?

5 A. Yes.

6 Q. What is your understanding of what is  
7 going on with this geography in terms of housing?  
8 What's there? Do you know?

9 A. I have no idea. I don't know.

10 Q. In terms of the map as a whole, do you  
11 have any understanding of where the white voting age  
12 population resides?

13 A. In District 2 for the plurality of them.

14 Q. So are you aware that District 2 is a  
15 district that primarily runs along the coast?

16 A. Yes.

17 Q. What is your understanding of where the  
18 Hispanic population is largely concentrated?

19 A. Districts 1, 3, and 4.

20 Q. And so those would be the inland areas of  
21 the city boundaries. Correct?

22 A. One and 4 are on the city boundaries.

23 District 3 is not on city boundaries inland. Or on  
24 the coast either.

25 Q. What areas of District 2. Did you

1 identify that could have been shifted to District 5  
2 that did not have a problematic racial makeup?

3 A. There were two split precincts I list  
4 here, precinct 534-A and 536-A. The split precincts  
5 that were given to District 5 had higher Black VAP  
6 than the portions that remained in District 2. It's  
7 broken down in district -- broken down in Table 5.

8 Q. And looking at that map are you able to  
9 identify where those districts -- I'm sorry. Where  
10 the precincts would be?

11 A. I don't recall.

12 Q. At any point when you were doing your  
13 precinct analyses did you drill down to the  
14 geography to figure out where they were located?

15 A. Yeah. Using the shape files. The maps.

16 Q. So if a precinct -- let's say in that  
17 example there is a precinct that you were drawing a  
18 comparison with for 534 or 536-A that was closer to  
19 what is the old district line for District 2, did  
20 that weigh into your analysis at all about whether  
21 you could give as much credence to the racial  
22 disparity?

23 A. I primarily looked at the splits -- the  
24 precinct splits. Just look at areas that were split  
25 amongst District 2 and District 5 that were

1 traditionally geographic units, preexisting  
2 geographic units, and compared what those areas  
3 looked like before and after the split.

4 Q. So you looked at the data, you didn't  
5 necessarily take into account the geography or any  
6 of the other information that might be impacting  
7 where the City was drawing the line. Is that fair?

8 A. I don't know what specifically you mean by  
9 geography, but I was not taking into account  
10 anything other than the data and the maps.

11 Q. I guess, Doctor, let me ask it this way.  
12 In this area of 10 and 11, what is your  
13 understanding -- or do you have any understanding of  
14 where white population might live within those  
15 borders and where the Black population might live  
16 within those borders?

17 A. No. Not at the block level. No, I don't.

18 Q. Would that be important to know as part of  
19 your analysis?

20 A. No.

21 Q. Why not?

22 A. I don't see how it would impact my  
23 conclusions or my analyses.

24 Q. Well, if one of the precincts that  
25 reflects the racial disparity you're referencing is,

1 say, located along this boundary (indicating), and  
2 they're capturing all of the area outside of that,  
3 they can't very well carve that out and put it into  
4 District 2 to maintain that, could they?

5 A. Can you rephrase that? I don't know who  
6 they is that you're referring to.

7 Q. Whoever is drawing the map. If someone is  
8 drawing a map and they're going to take this entire  
9 area (indicating), and let's say Precinct 534-A,  
10 hypothetically speaking, were somewhere along this  
11 area (indicating), they're capturing the areas on  
12 the outside or at the top to make a clean line,  
13 those are all decisions that might reduce or  
14 otherwise explain why there's a racial disparity  
15 there. Correct?

16 A. No.

17 Q. Why not?

18 A. They're taking -- they're taking portions  
19 of the precinct. The other portion of the precinct  
20 is contiguous -- geographically contiguous with the  
21 other half of the precinct.

22 Q. But do you know which way the precincts  
23 are running?

24 A. Not off the top of my head.

25 Q. Did you examine whether any of these

1 boundaries were following major roadways?

2 A. No.

3 Q. Okay. I want to shift down to Area 13. Is  
4 it your opinion that the racial disparities in the  
5 precinct splits there explain why that area was  
6 drawn that way?

7 A. No.

8 Q. What is your opinion concerning Area 13?

9 A. My opinion is that because the precincts  
10 do not differ by race that there were other  
11 considerations for why that area was moved. But  
12 because that area was moved other areas needed to be  
13 moved as well.

14 Q. Is it your conclusion that that area was  
15 drawn so that they could move other areas?

16 A. No. I don't know. I don't have -- I don't  
17 know the motivations.

18 Q. Did anyone ever inform you that at the  
19 very lowest point of that Area 13 in that general  
20 area where my cursor is (indicating), that that is  
21 where one of the city commissioners maintains a  
22 residence?

23 A. Yes.

24 Q. And what is your understanding of that?

25 A. My understanding is that the commissioner

1 had two homes, one of which was in District 3 and  
2 the other one was not.

3 Q. Did anyone ever inform you that that area  
4 was drawn so that his other residence would be  
5 included in District 3?

6 A. No.

7 Q. You indicated earlier that there were news  
8 reports that you had reviewed based upon your  
9 research. What were those news reports?

10 A. News reports were about the politics and  
11 the process and the conflict over the new maps or  
12 the map drawing process, I suppose.

13 Q. Okay. Were those related to the map  
14 drawing process that was commenced in 2022?

15 A. Yes.

16 Q. Did the news reports also cover the map  
17 drawing process that was done in 2023?

18 A. No.

19 Q. Did it cover any of the prior map drawing  
20 processes, whether it be '97, 2003, or 2013?

21 A. No.

22 Q. In 2022, how did it describe the politics?

23 A. They mentioned the commissioner's second  
24 home. That seemed to be one of the biggest stories  
25 that were mentioned. And that they were having

1 trouble coming up with a consensus about a map.

2 Q. Did the article also cover other  
3 circumstances as to why the commissioner might want  
4 his second home in his district?

5 A. I don't know. I don't know in particular.

6 Q. Do you recall if you read that news story  
7 before or after you finalized your first report in  
8 this matter?

9 A. Before.

10 Q. Is there a reason you did not include that  
11 in your report?

12 A. I couldn't speculate on motivation.

13 Q. Well, you considered incumbent addresses  
14 as something to be included in your report. Correct?

15 A. I considered the primary addresses, the  
16 homes of commissioners to determine whether any new  
17 lines of the districts would draw the incumbents out  
18 of their districts. He had a home in District 3 so  
19 that home was never in risk of being drawn out of  
20 District 3.

21 Q. Are you aware of any time he moved to the  
22 residence that is located in the bottom of that  
23 Area 13?

24 A. No.

25 Q. So if he had moved to that residence that

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1 was located in the bottom of Area 13, no one  
2 informed you of that?

3 A. No.

4 Q. The residence that he was living at when  
5 he was elected to office, that address would be in  
6 your notes. Correct?

7 A. It's in the data files.

8 Q. Those are the data files that were  
9 provided to you by counsel?

10 A. Correct.

11 Q. After reading that -- strike that. If I  
12 could ask you to flip to page 9 in your report.  
13 There you say, in Area 17 a former section of the  
14 southwest part of District 2 directly below US-1 did  
15 not substantially differ from the portions of  
16 District 2 surrounding it. It did, however, differ  
17 from -- markedly from the racial composition of the  
18 receding District 4 which undercuts the argument  
19 that commissioners were seeking to maintain four of  
20 the districts' racial compositions.

21 Is it your understanding that the  
22 commission intended to maintain the core of the  
23 districts racial compositions?

24 A. I believe it was one plausible  
25 explanation.

1           Q.    Would you agree that even separate from  
2 racial compositions, that there could be core  
3 geography that would be another measure or another  
4 criteria in terms of maintaining the core of  
5 districts? It doesn't have to be race. Correct?

6           A.    I don't know what you mean by geography.

7           Q.    Well, we're looking at these redistricting  
8 plans. They cover land. Correct?

9           A.    Yes.

10          Q.    Let me share my screen. So in looking at  
11 this map, District 4 covers a particular area of the  
12 city. Correct?

13          A.    Yes.

14          Q.    If one were to maintain as much of the  
15 core of District 4, keeping in mind that District 4  
16 would need to gain population, then one probably  
17 wouldn't wholesale or rewrite Districts 2, 3, and 4.  
18 Correct?

19          A.    It depends what your priorities are. I  
20 can't tell you how to draw a map about the -- you  
21 know, the specific boundaries of the cores. If  
22 that's a priority, that's the commission's priority.

23          Q.    Do you know which commissioner voted  
24 against the plan for the 2022 enacted plan?

25          A.    I believe there were two. I don't know

1 which ones.

2 Q. Is it your opinion that the city  
3 commission was looking to maintain the core of the  
4 districts based upon racial composition?

5 A. I don't know.

6 Q. You would agree that the changes there in  
7 Area 17 appear to be at odds in terms of racial  
8 motivations than those that we've discussed in  
9 relation to Area 8 and Area 10 and 11. Would you  
10 agree?

11 A. At least the splits -- the two precincts  
12 that were split in Area 17 do look different from  
13 one another racially.

14 Q. And so if the city commission was looking  
15 to exacerbate the Hispanic population in District 4  
16 they didn't do a very good job, did they?

17 A. I don't -- I'm not sure what you mean.

18 Q. Well, in describing some of the other  
19 areas in the split analysis that you've conducted,  
20 say for Area 10 and 11, comparing Districts 2 and 5  
21 and Area 8 and 6 related to Districts 5 and 1, you  
22 described those changes as exacerbating the existing  
23 racial segregation. That's not true of Area 17, is  
24 it?

25 A. The splits that were either given or

1 remained -- the splits that were given to District 4  
2 have greater Hispanic VAP than the splits that  
3 remained in District 2.

4 Q. In examining the other areas of  
5 District 2 that District 4 could gain from, did you  
6 look at any of the areas directly adjacent to Areas  
7 16 and 17 and 13?

8 A. I write in the first paragraph that  
9 Area 17 did not substantially differ from other  
10 portions of District 2 surrounding it.

11 Q. But, again, that's -- that's a scenario  
12 where -- let me back up.

13 That's the exact opposite scenario that we  
14 discussed related to District 1 and District 5.  
15 Correct?

16 A. No. Because the precinct splits were still  
17 designed around Hispanic VAP or still differed --  
18 they differed based on Hispanic VAP.

19 Q. Those two precinct splits that you  
20 identified for Area 17, do you know how many  
21 residents from a numerical basis are included there?

22 A. At the bottom of page 9, the District 4  
23 split of Precinct 584 contains 10 percent of the VAP  
24 that District 2 split contains. It's 235 individuals  
25 versus 2,108.

1           Q. Okay. And so in unpacking those numbers,  
2 does that mean the 235 is a reference to what is  
3 retained in District 4?

4           A. What was given to District 4. Yes.

5           Q. And the 2,108, are those retained in  
6 District 2?

7           A. Correct.

8           Q. From a statistical significance  
9 standpoint, is 235 a statistically significant group  
10 of voters?

11          A. Significant relative to what?

12          Q. To the district size.

13          A. I mean, I don't -- statistical  
14 significance is about an estimate. It's about  
15 understanding whether an estimate is likely to be  
16 correct. So these aren't estimates.

17          Q. Can you repeat your answer related to --

18          A. There is a difference between statistical

19 significance and substantive significance.

20 Statistical significance refers to estimating  
21 things. Whether -- an estimate has a confidence  
22 interval. It has bounds. It could be X less than the  
23 estimate or it could be X more than the estimate.  
24 The 235 individuals is not an estimate, it's the  
25 number of individuals that lived in that precinct

1 split.

2 Q. So if we're dealing with -- and you will  
3 have to forgive me. It's been almost 30 years since  
4 I took statistics. So if you're talking about actual  
5 numbers, I think you indicated, is that substantive  
6 significance?

7 A. Substantive significance. Yes.

8 Q. Are 235 voters substantively significant  
9 for a district size?

10 A. That's a subjective opinion. That's a  
11 subjective decision. Subjective opinion.

12 Q. What would that subjective opinion be  
13 dependent on?

14 A. It depends what your goals and your  
15 preferences are about how the map should look or  
16 how -- you know, whatever your opinion about what  
17 matters in the map.

18 Q. Okay.

19 MR. LEVESQUE: I'm going to suggest  
20 we take about a ten-minute break.

21 MR. MERKEN: Sounds good, George.

22 (Recess in proceedings.)

23 Q. Dr. Abott, if I can refer to you page 12  
24 of that first report. I'm going to share my screen.  
25 There again is a depiction of the areas. I want to

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1 talk about Area 14 and 15 now. If I understand  
2 correctly, is it your opinion that Area 14 or 15 was  
3 added to offset the addition of Area 13?

4 A. That is my speculation. Yes.

5 Q. Did you do any analysis of any of those  
6 geographic areas where District 3 borders District 4  
7 in terms of what the Hispanic voting age population  
8 is in any of those areas?

9 A. In any of those -- I'm sorry; the last  
10 part you said?

11 Q. In any of those areas related to the  
12 border between District 3 and District 4?

13 A. I don't think I looked particularly at the  
14 border over there.

15 Q. So it's possible that District 4 could  
16 have picked up population in the corner where  
17 District 4 and District 3 connect and that might  
18 have had the same Hispanic voting age population  
19 makeup that's reflected in Area 14 or 15; you just  
20 don't know. Correct?

21 A. Well, that's what I say in this paragraph  
22 that Area 14 and 15 does not strongly differ from  
23 the areas immediately surrounding it either in  
24 District 3 or in District 4.

25 Q. Well, I guess -- is it your opinion that

1       that area was selected to offset the addition of the  
2       Area 13 that had a heavier white voting age  
3       population?

4           A.     That was my speculation. Yes.

5           Q.     You framed it as a speculation. Is that  
6       one of your opinions in this case?

7           A.     I cannot make judgments or draw  
8       conclusions about specific motivations. I can just  
9       tell you that the data suggests that Area 14, 15  
10      offsets some of the whiter population that was added  
11      by Area 13.

12          Q.     You would agree that District 4 needed to  
13      pick up population somewhere to make up that  
14      difference. Correct?

15          A.     Do you mean District 3?

16          Q.     I'm sorry. Yes. District 3.

17          A.     Let me see. Yes. District 3 needed to add  
18      population. Area 13 contained 1,396 people, which is  
19      only 18.6 percent of the total number of people that  
20      were moved to District 3.

21          Q.     So District 3 could have picked up  
22      additional voters or residents from District 2 or  
23      District 4 or District 1. If it's picking up voters  
24      from District 4, I just want to be clear, you didn't  
25      do any analysis as to whether -- and looking at my

1 cursor kind of there in that corner -- whether  
2 picking up these areas would be racially the same as  
3 this area, did you?

4 A. I did. I looked at the surrounding areas  
5 and the areas were similar. My point was that it  
6 would have made more sense, from my perspective, to  
7 pick up more areas from Area 2 which was the  
8 district -- sorry. From District 2. Because  
9 District 2 is the area -- was the district that  
10 needed to shed population. So rather than take area  
11 and take population from District 4, District 3  
12 could have taken more area from District 2.

13 Q. Okay. I want to talk about the alternative  
14 explanations that you rejected in your report. On  
15 page 12 you reject partisanship as an alternative  
16 explanation. And one of the bases is that the  
17 districts are nonpartisan districts.

18 Why is the fact that the districts are  
19 nonpartisan districts not indicative or not  
20 appropriate for consideration of a partisan  
21 gerrymandering?

22 A. It's not that the districts are not  
23 partisan, the commission is not partisan. The  
24 commissioners who serve in the commission are  
25 nonpartisan and run in nonpartisan elections. The

1 reason that partisanship is not an adequate  
2 explanation right away is simply based on the fact  
3 that elections are not done on a partisan basis.  
4 They're not done on a partisan basis. And even  
5 though it is somewhat easy to figure out the  
6 partisanship of the candidate, or of the person  
7 running the election, the commissioners who agreed  
8 to this map did so across their party lines.

9 Q. What about consideration of issues such as  
10 ideology?

11 A. What about them?

12 Q. Did you factor in the ideology of any of  
13 the candidates or commissioners?

14 A. No.

15 Q. Do you know the ideology of any of the  
16 commissioners?

17 A. No.

18 Q. You identified the fact that the 2022  
19 enacted plan was passed on a 3-2 margin. Do you know  
20 if there were other types of politics that might  
21 have factored into that?

22 A. No.

23 Q. Do you know if that map was passed along  
24 racial or ethnic lines?

25 A. Well, I know the commissioner from

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1 District 5 was a Black Democrat and the other two  
2 Republicans who joined the Democrat, I don't know  
3 their race. But they weren't Black.

4 Q. Do you know the race or ethnicity of the  
5 two commissioners who voted against the plan?

6 A. I don't.

7 Q. Do you think that would be relevant in  
8 terms of your analysis?

9 A. No.

10 Q. Have you done any research on the City of  
11 Miami's electoral politics?

12 A. No.

13 Q. And in reaching your conclusions in your  
14 first report, that is not something you factor into  
15 your consideration. Correct?

16 A. Correct.

17 Q. In doing your analysis you relied  
18 exclusively on the data to reach your conclusions.  
19 Correct?

20 A. Correct.

21 Q. In reviewing the 2022 enacted plan, would  
22 you agree with the statement that the plan generally  
23 maintains the cores of the existing district?

24 A. Yes.

25 Q. On page 16 you have a statement, a number

1 of alternative maps were proposed but not enacted  
2 and you state all maps tended to shore up existing  
3 racial compositions with individual commission  
4 districts, particularly those districts of 1, 2,  
5 and 5.

6 So that would be true of not only the  
7 enacted plan, but all of the versions that were  
8 rejected by the commission as well. Correct?

9 A. All of the alternative maps that I was  
10 given. Yes. All the alternative proposals that I was  
11 given.

12 Q. And when you say the maps tended to shore  
13 up existing racial compositions, what do you mean by  
14 shore up?

15 A. What I mean is that areas that were moved  
16 into those districts tended to look more like those  
17 districts that they were moved into rather than  
18 alternative options that were not moved into those  
19 districts.

20 Q. And when you refer to the existing racial  
21 composition, you don't have an opinion one way or  
22 another on whether the city plan in 1997, in 2003,  
23 or 2013 would have been impermissible racial  
24 gerrymander, do you?

25 A. I do not have an opinion.

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1           Q. If I could ask you to flip to page 1 of  
2 your second report you indicate that the city's  
3 proposed remedy, Resolution 23-271 differs only  
4 marginally from the enjoined plan. In comparing  
5 those two plans, do you know if there were any  
6 efforts to address any of the criticism of the  
7 Court related to the enjoined plan?

8           A. I do not.

9           Q. Did you read the Court's order relating to  
10 the enjoined plan?

11          A. I did not.

12          Q. So if the Court criticized a particular  
13 area of the map and the city commission addressed  
14 that, your opinion wouldn't take any of that into  
15 account?

16          A. No.

17          Q. Is it fair to say that just like your  
18 first report, your second report relies exclusively  
19 on an analysis of the data to reach its conclusions?

20          A. Yes.

21          Q. Under what circumstances would it be  
22 appropriate to consider other factors other than  
23 just the data when applying your standard  
24 methodology?

25          A. I don't understand the question.

1           Q. My understanding is you used a standard  
2 methodology, that's the way you described it, in  
3 analyzing the data related to the maps. Correct?

4           A. Correct. Yes.

5           Q. Are there circumstances where under that  
6 standard methodology it is appropriate to consider  
7 things other than simply the data to look for  
8 explanations as to why a certain decision was made?

9           A. Not for the questions I was asked to  
10 answer by counsel.

11          Q. And remind me again, what were the  
12 questions that you were asked to answer?

13          A. In the second report I was asked to use  
14 data on voting age population and citizen voting age  
15 population and voting patterns within individual  
16 city precincts in order to determine whether and to  
17 what extent race can explain the overall shapes in  
18 the districts in a proposed remedy as well as the  
19 changes between the enjoined plan and the proposed  
20 remedy.

21          Q. Would you agree that the 2023 plan,  
22 Resolution 23-271, is substantially similar to both  
23 the enjoined plan and the 2013 plan?

24          A. It is to the enjoined plan. I did not  
25 compare it to the 2013 plan.

1           Q.     So as we sit here today you're not able to  
2 offer an opinion on whether that's similar or not?

3           A.     I did not compare it to the 2013 plan.

4           Q.     Now on page 2, similar to your first  
5 report, you indicate that you rely on the 2020  
6 census data, but you also rely on the 2020 American  
7 Community Survey five-year estimates. For the first  
8 report you relied on the 2019 survey data. For the  
9 second report, is there 2020 American Community  
10 Survey data?

11          A.     Can you say the last part again?

12          Q.     Is there 2020 American Community Survey  
13 five-year estimate data for 2020?

14          A.     In the appendix. Yes.

15          Q.     And is that -- do you know if the 2021  
16 American Community Survey five-year estimate data  
17 was available?

18          A.     I don't know.

19          Q.     Is there a reason why you used 2019 for  
20 the first report and 2020 for the second report?

21          A.     That's the data that counsel asked me to  
22 use.

23          Q.     Do you know when the 2021 American  
24 Community Survey five-year estimates were released?

25          A.     I do not know.

1           Q.     Do you know if it was available at the  
2 time that you did this report?

3           A.     I do not know.

4           Q.     Do you know if the data would have  
5 reflected something different either than 2019 or  
6 2021?

7           A.     I do not know.

8           Q.     Do you know how many commissioners  
9 supported the 2023 plan?

10          A.     I do not know.

11          Q.     And just like the first report related to  
12 the 2022 plan, you didn't review any transcripts  
13 related to the enactment of the 2023 plan. Correct?

14          A.     Correct.

15          Q.     Would you agree that if a city commission  
16 draws a non-compact district that they can do it for  
17 nonracial reasons?

18          A.     Yes.

19          Q.     There might be any number of  
20 constitutional reasons why they might draw a  
21 non-compact district. Correct?

22           MR. MERKEN: Objection to the form to  
23 the extent it calls for a legal  
24 conclusion.

25          Q.     You can answer, Doctor.

1           A. There are other reasons -- there are  
2 reasons why someone -- a commission might draw a  
3 non-compact district that's not related to race.

4           Q. What are some of those otherwise  
5 acceptable reasons why they might draw a non-compact  
6 district that has nothing to do with race?

7           A. I cannot -- I can't speculate.

8           Q. I'm not asking you to speculate as to why  
9 this particular city commission; I'm just asking you  
10 are you aware of what other non-compact -- what  
11 other reasons might exist for any commission to draw  
12 a non-compact district?

13          A. Geographical features in the landscape.  
14 Partisan concerns. The size of the population in  
15 those areas.

16          Q. Is there a reason why you compared the  
17 23-271 plan, the 2023 plan, to the enjoined plan and  
18 not the benchmark plan?

19          A. That's what counsel asked me to do.

20          Q. Would you agree that under either the 2022  
21 plan or the 2023 plan, that Districts 1, 3, and 4  
22 became less Hispanic?

23          A. No. No. Under the 2022 plan, District 1  
24 went from being 89.5 percent Hispanic VAP to 89.7  
25 percent Hispanic VAP. District 3 went from 88.3 to

1       84.5, which was a decrease. And District -- sorry.

2       What was the last one?

3           Q. Are you -- which plan -- which plan are  
4       you -- it would be 4, but which plan are you  
5       comparing to which?

6           A. The enjoined plan to the 2020 -- the 2022  
7       plan to the 2023 plan.

8           Q. Okay.

9           A. Then in District 4, Hispanic VAP went from  
10      89.5 percent to 90.0 percent.

11          Q. Okay. My question was -- and I'll break it  
12      down. Because my question was actually related to  
13      both, the 2022 and the 2023 compared to the 2013  
14      plan.

15          A. Okay.

16          Q. Compared to the 2013 plan, the 2022 plan,  
17      Districts 1, 3, and 4 become less Hispanic. Correct?

18          A. Correct.

19          Q. And District 5 becomes less Black.  
20      Correct?

21          A. Between the 2013 and the 2022 plan, yes.

22          Q. Correct. And then comparing the 2023 plan  
23      to the 2013 plan, the same is also true for all  
24      three of those districts. Correct?

25          A. Yes.

1           Q. And the same is also true for District 5,  
2 the Black district?

3           A. Yes. Correct.

4           Q. Did you do any analysis as to whether the  
5 city commission could have drawn districts that were  
6 higher in Hispanic percentage for Districts 1, 3, or  
7 4?

8           A. I did not.

9           Q. And the same question for District 5.

10          A. I did not.

11          Q. Did you ever speak with Dr. Moy?

12          A. Yes.

13          Q. How many times?

14          A. In the capacity of working on this  
15 case or --

16          Q. Yes.

17          A. I believe we e-mailed once or twice.

18          Q. Do you know if counsel was included on  
19 those e-mails?

20          A. I cannot recall.

21          Q. Did you speak with Dr. McCartan at all  
22 related to this case?

23          A. I did not.

24          Q. I'm going to share my screen a little bit.  
25 We're going to talk through some of the changes in

1 the map. Are you able to see that okay?

2 A. Yeah.

3 Q. Okay.

4 MR. MERKEN: George, could you  
5 please make it a little bit larger?

6 MR. LEVESQUE: I can. How about I do  
7 that. And I can scroll around to  
8 different areas that we'll be discussing.

9 MR. MERKEN: Is that okay?

10 THE WITNESS: Yeah. That's fine.

11 MR. MERKEN: Thank you, George.

12 BY MR. LEVESQUE:

13 Q. The first area I want to talk about is  
14 this area here (indicating). This area, District 1,  
15 and this area is District 4. You're critical of the  
16 move of that little sliver between District 6. Can  
17 you explain why?

18 A. Are you referring to Area 6 right now?

19 Q. Yes. I apologize. Area 6. Can you tell me  
20 why?

21 A. Yeah. One second. So what is -- can you  
22 repeat the question about Area 6, please?

23 Q. On page 5, I'm trying to ascertain the  
24 significance of both the table and the reference in  
25 the paragraph above as to the significance of

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1 highlighting Area 6 in your report.

2 A. All of the areas that were highlighted in  
3 teal in Table 3 are areas that were moved into  
4 District 1 between the 2022 plan and the 2023 plan.  
5 So it was a comparison of the two plans looking at  
6 what was moved into District 1 from the previous  
7 plan.

8 Q. Is the move of that Area 6 from District 4  
9 to District 1 problematic in your mind?

10 A. I don't -- they -- it was an area -- Area  
11 6 is a small population and it had a very high  
12 Hispanic VAP, but I don't think I highlighted these  
13 as -- because they were necessarily problematic. I  
14 highlighted them to describe what changes were being  
15 made between the two plans.

16 Q. Let me put it this way. You've identified  
17 several areas there in Table 3 related to the  
18 movements involving District 1. Which changes are  
19 indicative of race-based criteria then?

20 A. I think my point in highlighting these was  
21 that there was actually very little change between  
22 the two plans.

23 Q. For District 1?

24 A. For District 1.

25 Q. Do you see any of the changes that were

1 made to District 1 as being problematic?

2 A. I don't -- I'm not in a position to draw a  
3 conclusion about whether they were problematic or  
4 not.

5 Q. Let me -- I'll sort of rephrase it. Do you  
6 see any of those changes that were made to  
7 District 1 as being drawn in a way that race is the  
8 predominant factor?

9 A. I don't -- I don't -- I don't -- I don't  
10 have an answer to that. I don't -- I don't know.

11 Q. Okay.

12 A. Because the changes made were very  
13 minimal. As I said in the second paragraph on  
14 page 5, the districts are of similar racial  
15 composition and this movement made little difference  
16 to either of their overall racial VAP.

17 Q. Let's talk about some of the changes that  
18 were made in District 2. Yo can see district -- that  
19 Area 10 is being added back into District 2. Are you  
20 critical of the commission's decision to add that  
21 area back into District 2?

22 A. No.

23 Q. Are you critical of the decision to add  
24 this area of 11 back into District 3?

25 A. I don't have an opinion.

1           Q.   Would you agree that that addition is very  
2 similar to -- strike that. Let me ask this. Are  
3 there any changes to District 2 that you feel were  
4 drawn primarily on race-based criteria?

5           A.   The areas that were moved into  
6 District 2 look more similar racially to  
7 District 2 than the donor districts.

8           Q.   So is that -- can you translate that for  
9 me?

10          A.   Translate it into what? You want me to  
11 rephrase it?

12          Q.   Well, are the -- I'm trying to  
13 understand -- my question was, do you feel any of  
14 the changes to District 2 were made based upon  
15 race-based criteria?

16          A.   Between the `22 plan -- the 2022 plan and  
17 the 2023 plan?

18          Q.   Correct.

19          A.   I don't have an opinion other than to say  
20 that the districts -- the areas looked different  
21 racially between the donor districts and the  
22 recipient districts.

23          Q.   Okay. But you don't have an opinion on  
24 whether race predominated those decisions?

25          A.   I don't. I wasn't -- I wasn't asked to do

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1       that. I was simply asked to compare the two plans.

2           Q. Well, were you asked to draw conclusions  
3       related to the 2022 plan?

4           A. The changes to the '22 plan?

5           Q. No. I'm kind of backtracking a little bit  
6       so I understand what you were asked to do. In  
7       relation to the 2022 plan, were you asked to draw  
8       conclusions from the data related to the changes  
9       that were made to the 2022 -- I'm sorry. Changes  
10      made to the districts to reach the 2022 plan?

11          A. I was asked to look at the differences  
12      between the two plans.

13          Q. And when you say the two plans, are you  
14      referring to 2013 and 2022 or are you referring to  
15      2022 and 2023?

16          A. 2022 and 2023.

17          Q. So other than noting the differences  
18      between 2022 and 2023, you weren't asked to draw any  
19      conclusions as to what might have been the  
20      motivating factors in those changes?

21          A. I didn't do the same sort of analysis I  
22      did in the first expert report where I looked at  
23      surrounding possible precincts that could have been  
24      moved rather than the ones that were moved.

25          Q. And I think related to the 2022 plan, your

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1       opinion was that on a districtwide basis there was  
2       not a racially significant change from 2013 to 2022;  
3       is that correct?

4           A.     Yes.

5           Q.     Is the same also true for the 2023 plan?

6           A.     Yes.

7           Q.     At the bottom of page 8 you state:  
8       Collectively the areas moved out of Districts 1, 3,  
9       and 4 have much lower Hispanic VAP -- turning over  
10      to page 9 -- 58.8 percent than the enjoined  
11      districts 85.6 and 89.6, making that three district  
12      grouping more concentrated to a Hispanic VAP.

13                  Is that just a factual observation that  
14      you're making?

15                  A.     It is a factual observation I'm making.

16                  Q.     Are you drawing any conclusions from that  
17      factual observation?

18                  A.     Not from that factual observation alone.

19                  Q.     Well, let me ask this. Is it your opinion  
20      that the city commission drew the 2023 plan to shore  
21      up the three Hispanic districts with additional  
22      Hispanic voters?

23                  A.     I don't think the changes between the 2022  
24      plan and the 2023 plan were notably different for  
25      the Hispanic super majority districts.

1           Q. Okay. So what conclusion would you be  
2 drawing either in part or in whole from that factual  
3 observation related to the three district grouping  
4 being more concentrated in its Hispanic VAP?

5           A. Are you referring to specific areas or  
6 just all of the -- all of the areas that were moved  
7 out of the majority Hispanic districts?

8           Q. Well, I had read that sentence and I asked  
9 if you were drawing any conclusions or relying on  
10 that for any conclusions and you said not -- and I'm  
11 paraphrasing. My impression from your answer was  
12 that that would not serve as the basis -- the sole  
13 basis for conclusion but it might factor into other  
14 conclusions. I'm inquiring as to what those other  
15 conclusions are that would rely on that factual  
16 basis.

17          A. There are no other conclusions. But  
18 conclusions -- the observations that the -- the  
19 areas that were moved out of the Hispanic super  
20 majority districts are lower in Hispanic VAP than  
21 the areas that were moved out of the enjoined  
22 districts.

23          Q. Okay. What effect would that have on  
24 District 2?

25          A. It would shore up -- it would shore up

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1 District 2's racial composition.

2 Q. In which direction?

3 A. What do you mean by which direction?

4 Q. Well, related to Hispanic voters, what did  
5 those movements do for District 2?

6 A. Sorry. Can we go back -- can you clarify  
7 exactly which areas you're referring to? Just so  
8 we're all on the same page.

9 Q. I'm referring to the areas that were moved  
10 out of Districts 1, 3, and 4. Your statement at the  
11 bottom of page 8.

12 A. Right. Are these areas that were moved  
13 directly into District 2 that you're talking about?

14 Q. Yes.

15 A. Okay. Do we have a specific -- are you  
16 looking at a specific table?

17 Q. Let's look at Area 10 that's on the screen  
18 there.

19 A. Yeah.

20 Q. What effect would moving that into  
21 District 2 have on District 2 in terms of Hispanic  
22 voters?

23 A. It would probably not do much because it's  
24 similar to the racial composition of District 2.

25 Relative to the 2022 plan it would add in -- it

1 would add in some more Hispanic voters that had been  
2 taken out. But the composition of that area is very  
3 similar to the composition of District 2 as a whole.

4 Q. What about for Area 11?

5 A. Well, the same answer except it was  
6 removed from District 2. So it was an area that was  
7 very similar to District 2 that was removed from  
8 District 2. But it was not similar to the district  
9 it was moved into, which is District 3.

10 Q. Other than making those observations about  
11 similarities and dissimilarities, you're not making  
12 any conclusions from that related to these changes?

13 A. Not those specific changes, no.

14 Q. What about the changes to Area 12?

15 A. Area 12, it's that little --

16 Q. Right in there (indicating).

17 A. Okay. Similar -- moving a portion of  
18 the -- moving an area that looks not like its donor  
19 district, Area 3, which was super majority  
20 Hispanic -- moving that area into -- back into  
21 District 2, which looked more like District 2 as a  
22 whole.

23 Q. Other than the factual observation, you're  
24 not drawing any further conclusions from that?

25 A. No. Correct.

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1           Q. Area 9, other than making the factual  
2 observations related to Area 9, do you draw any  
3 further conclusions related to Area 9?

4           A. No. It was a high Hispanic area moved  
5 between two high Hispanic districts.

6           Q. And what about for Area 20? Other than  
7 making factual observations about the population  
8 that is being moved, do you draw any conclusions  
9 about the addition of that area to District 5?

10          A. No.

11          Q. What about for Area 19 that was moved from  
12 District 5 into District 2? Other than making  
13 factual observations about the move, do you draw any  
14 conclusions from that move?

15          A. Well, so Area 19 had a lower Black VAP  
16 than the District 5 as a whole and it was given to  
17 District 2. So that it looked more like District 2,  
18 the recipient district, which did affect or would be  
19 more likely to affect the overall racial composition  
20 of District 5.

21          Q. Do you know if the racial composition of  
22 District 5 changed between the 2022 plan to the 2023  
23 plan?

24          A. It did not.

25          Q. Okay. For Area 13 and 14 there, between

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1 District 1 and District 5, that little spot, other  
2 than making factual observations about the  
3 population being exchanged between those two  
4 districts, do you draw any conclusions from those  
5 changes?

6 A. Again, 13 and 14?

7 Q. Yes.

8 A. Area 13 had a higher Black VAP than  
9 District 1 and that was moved into District 5 which  
10 was majority Black. Area 14 has a high Hispanic VAP  
11 compared to District 5, which is what it was being  
12 moved from and a relatively low Black VAP.

13 Q. Other than the factual observations that  
14 you just described, do you draw any conclusion --  
15 did you draw any further conclusions from those  
16 factual observations?

17 A. The changes to the Black VAP in the 2022  
18 map was not changed significantly by the 2023 map.

19 Q. Do you reach the conclusion, then, that  
20 those changes related to Areas 13 and 14 indicate  
21 map drawing based upon race-based criteria?

22 A. Race was taken into account.

23 Q. It was taken into account for Areas 13 and  
24 14?

25 A. They look different given that they were

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1 swapped from the same donor and recipient -- from  
2 the same districts given that they were exchanged in  
3 the swap and that they look racially different,  
4 their composition is racially different. That  
5 suggests to me that race was considered.

6 Q. Related to the changes to the -- in that  
7 Area 13, do you agree that that would tend to make  
8 District 5 a district with a 50.3 Black voting age  
9 population less Black and more Hispanic?

10 A. Yes. But as I've said before, you have to  
11 take into consideration alternative movements. But  
12 yes.

13 Q. Well, in looking at at least one of the  
14 alternative movements between District 3 -- I'm  
15 sorry -- District 1 and District 5, in that Area 14,  
16 that would make District 1, which is a Hispanic  
17 district, more Black and less Hispanic. Correct?

18 A. Yes.

19 Q. And so at least as it relates to 13 and  
20 14, those are going against the majority population  
21 in those districts?

22 A. There's a difference in population size  
23 between the two areas as well. So there are -- you  
24 know, much -- there are, what, a quarter of the  
25 people in Area 14 as there are in Area 13.

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1 Q. Okay. Well, let's look at Area 15, then.

2 It was moved from 5 into 1. Would you agree that  
3 that would also make District 1 more Black and less  
4 Hispanic without having a significant change to  
5 District 5?

6 A. Area 15 that was moved to District 1 has a  
7 higher Black voting age population than district --  
8 than Area 16. Yes. That is correct.

9 Q. And District 16 -- I'm sorry. Not District  
10 16. Area 16 that was moved from District 1 into  
11 District 5 would have a tendency to make District 5,  
12 a Black district, more Hispanic and less Black.  
13 Correct?

14 A. Correct. Compared at least -- without  
15 looking at other options, yes.

16 Q. So at least in looking at those -- and you  
17 would agree the change in 17 only involves ten  
18 people. Correct?

19 A. Yes.

20 Q. Of the changes that are detailed in Areas  
21 13 and 15, all of those areas fall -- are made in a  
22 direction that would be opposite to shoring up the  
23 district that is getting that population. Correct?

24 A. Without comparing it to other options,  
25 that is correct. But noting also that the number of

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1 people moved to each of these areas is quite small.

2 Q. Okay. When you say they are quite small,  
3 what are you referring to? What is your comparison  
4 there?

5 A. I'm sorry. What was the last part you  
6 said?

7 Q. What is your comparison?

8 A. To the overall number of people who are  
9 moved in the 2022 plan.

10 Q. Okay. So in terms of all of the people  
11 moved in all of the districts, these changes are  
12 small?

13 A. Yes.

14 Q. But if I understood correctly, you were  
15 saying these changes were indicative of race-based  
16 map drawing. Did I understand that correctly?

17 A. That they were or were not?

18 Q. That they were.

19 A. They take race into account. Yes.

20 Q. They do take race into account. How do  
21 they take race into account?

22 A. They look different than the other areas  
23 surrounding them or in the districts.

24 Q. Well, I guess, Doctor, what -- what are  
25 the determining factors when you're moving an

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1 area -- into a district or out of a district as to  
2 whether race is a criteria?

3 A. If the area looks different racially than  
4 other areas or the districts.

5 Q. Okay. So let's break that down. If I'm  
6 moving an area from District 1 into District 5 and  
7 the racial composition is either the same as 1 or  
8 the same as 5, I'm going from 1 to 5 -- let me start  
9 my hypothetical over.

10 If I'm moving a population from District 1  
11 to District 5 and the racial composition of the  
12 district is the same as District 1, is that a  
13 movement that would be indicative of race-based  
14 decision-making?

15 A. If it looks different than the other  
16 surrounding areas that could have been moved.

17 Q. Okay. For the 2023 plan, did you do any  
18 analysis of the other surrounding areas?

19 A. No. Except for -- except for the Overtown  
20 area.

21 Q. Okay. Apart from the Overtown, did you  
22 analyze the surrounding areas for any of the other  
23 changes that were made?

24 A. No. I was not asked to do that.

25 Q. So as we sit here today, then, you're not

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1 able to say one way or another whether any of the  
2 other changes reflect race-based decision-making; is  
3 that correct?

4 A. My conclusion from this expert report was  
5 that the two maps were not substantially different  
6 from one another.

7 Q. Okay. But other than that, you did not  
8 examine the individual decisions like you did with  
9 the 2022 plan. Correct?

10 A. I did not look at alternative options.

11 Q. And you would need to do that to draw the  
12 conclusions as to whether a particular movement was  
13 indicative of race-based criteria. Correct?

14 A. For each individual area and each  
15 individual movement I would say that is correct. I  
16 looked at Overtown and did a similar -- a similar  
17 thing that I did with the first report.

18 Q. So talk to me about your work on Overtown.  
19 What did you look at when evaluating the changes  
20 that were made to Overtown?

21 A. I looked at what areas were moved and what  
22 areas were not moved.

23 Q. Okay. And in terms of the map that we're  
24 looking at, what areas reflect where Overtown is?

25 A. There are multiple definitions of

1 Overtown.

2 Q. Do you have an opinion as to which  
3 definition of Overtown should be used?

4 A. I do not.

5 Q. Do you know if the definition that is  
6 reflected in the map that was put together at the  
7 June 14th commission meeting reflects  
8 Mr. De Grandy's understanding of where the Overtown  
9 historic borders are or whether it reflects the city  
10 commission's understanding where the Overtown  
11 historic borders are?

12 A. I --

13 MR. MERKEN: Objection to form. You  
14 can answer it if you understand it.

15 A. Yeah. I don't know the difference between  
16 De Grandy's definition and the city's definition.

17 Q. All right.

18 A. Or the commission's definition.

19 Q. Now, as it relates to how the city drew  
20 the borders of the Overtown area, what are your  
21 conclusions about how the city drew the borders of  
22 the Overtown area?

23 A. Do you mean De Grandy?

24 Q. I mean, the Overtown area that is  
25 reflected in the 2023 plan.

1           A. There is no designation of Overtown in the  
2 2023 plan.

3           Q. Well, I guess -- Mr. De Grandy is the  
4 city's consultant. Correct?

5           A. As far as I understand. Yes.

6           Q. I'll represent to you that he is the  
7 city's map drawing consultant and legal counsel for  
8 the purposes of drawing maps. The changes that are  
9 currently reflected on the screen to Overtown, do  
10 you understand those to be Mr. De Grandy's  
11 alterations?

12          A. No, I don't.

13          Q. Okay. On page 11 of your report where you  
14 refer to, overall, De Grandy's boundaries of  
15 historic Overtown are considerably more restrictive  
16 than both city code and the GMCVB/NET/MPD  
17 definition. I guess, what description of boundaries  
18 are you referring to when you refer to De Grandy's  
19 boundaries?

20          A. I'm looking at Figure 3, the top left map,  
21 top of panel where the yellow Area 34 is, according  
22 to counsel, De Grandy's definition of historic  
23 Overtown. Whereas that area plus the teal area,  
24 Area 35, is more expansive is the definition that is  
25 in the city code that's excluded from De Grandy's

1 definition of historic Overtown.

2 Q. Would you agree that Figure 3, that top  
3 left picture, generally would match the area that is  
4 depicted in the changes to the enjoined plan and the  
5 2023 plan that are reflected in that Area 16 and the  
6 area north of 17?

7 A. I think that's correct, but I don't -- I  
8 don't have the exact -- these are different maps so  
9 I can't tell you for sure.

10 Q. The maps in Figure 3, did you draw those?

11 A. I did not.

12 Q. Do you know who did?

13 A. I do not.

14 Q. Were those provided to you by counsel?

15 A. They were.

16 Q. Related to your analysis of Overtown, what  
17 were you asked to do?

18 A. I was asked to compare the areas -- the  
19 racial composition of the areas that were included  
20 in De Grandy's definition to the racial composition  
21 of the areas that were excluded from De Grandy's  
22 definition but included in other versions -- other  
23 definitions of historic Overtown. Official  
24 definitions from the city and from tourist --  
25 tourism groups.

1           Q. The definitions that you have cited in  
2 your report, did you research and find those or were  
3 those provided to you?

4           A. I think the city code text -- any other  
5 text was provided to me were sources.

6           Q. What about the Miami Police Department or  
7 the greater Miami, Miami convention and visitors  
8 bureau definitions?

9           A. Yes. Both. All three.

10          Q. All three were provided? Were they --  
11 sorry.

12          A. Yes.

13          Q. Were there any definitions that you  
14 researched that you found in addition to those  
15 three?

16          A. No.

17          Q. Have you done any research on the  
18 historical background of Overtown?

19          A. No.

20          Q. What is your understanding of what  
21 Overtown is?

22          A. My understanding is that historic Overtown  
23 is an area that -- part of which is -- has a high  
24 Black VAP, but that other parts of historic Overtown  
25 do not depending on the definition.

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1 Q. Do you know if the borders of what the  
2 locals -- strike that.

3 Did you speak to anyone concerning what  
4 those who live in that area would consider Overtown  
5 to be now?

6 A. No.

7 Q. Are you aware of the history of Overtown  
8 and the construction of I-95 through Overtown?

9 A. No.

10 Q. Did anyone discuss how the construction of  
11 I-95 severed Overtown and over time the two sides  
12 lost their joint identities?

13 A. No.

14 MR. LEVESQUE: Okay, Doctor. What I  
15 would like to do is, I would like to take  
16 a five-minute break and I think I can  
17 sort of be in a position to make a final  
18 push if that works.

19 MR. MERKEN: Sounds good. Thank you,  
20 George. We'll be back at 1:00.

21 (Recess in proceedings.)

22 BY MR. LEVESQUE:

23 Q. Dr. Abott, in the final portion of your  
24 second report you refer to the partisan motivations  
25 not being an acceptable explanation as to why the

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1 changes were made to the 2023 plan. The changes that  
2 were made to the 2023 plan, did they significantly  
3 alter the performance of any of the districts?

4 A. What do you mean by performance?

5 Q. Where they would perform for a Republican  
6 or a Democrat?

7 A. I only looked at the 2020 presidential  
8 election. I didn't look at any subsequent elections.

9 Q. Did you also look at the 2018  
10 gubernatorial election?

11 A. Not in this report.

12 Q. Okay. For either your work on the 2022  
13 plan related to assessing partisanship as an  
14 explanation or the 2023 plan, did you examine any  
15 local elections as to how any of the commissioners  
16 might perform in a given district?

17 A. I didn't look at any other elections.

18 Q. Okay. So what race or ethnicity is  
19 President Trump?

20 A. White.

21 Q. And do you know the race or ethnicity of  
22 Governor DeSantis?

23 A. I do not.

24 Q. Have you done any analysis as to whether a  
25 Hispanic candidate running in one of the city

1 commission districts would perform better or worse  
2 compared to either President Trump or Governor  
3 DeSantis?

4 A. I have not looked at city commission  
5 elections.

6 Q. So if it's possible for a Hispanic city  
7 commissioner to get a bump in a nonpartisan election  
8 that would outperform either President Trump or  
9 Governor DeSantis, that's not something you would  
10 have any insight on because that's not an analysis  
11 that you've conducted?

12 A. It is not.

13 Q. Would you agree, then, that your analysis  
14 of partisanship based upon just those two elections  
15 without considering how a Hispanic commissioner  
16 running in a Hispanic district might not be fully  
17 accounted for in terms of how the map drawing could  
18 be done?

19 A. No. I was looking at partisanship, not at  
20 race.

21 Q. Is sometimes race a factor that's -- well,  
22 let me strike that.

23 Is race sometimes a factor that comes into  
24 play in elections?

25 A. Yes.

1           Q. And I think in regards to both your  
2 assessment of the 2022 plan and that 2023 plan, your  
3 conclusions are led by the data. Correct?

4           A. Correct.

5           Q. And at least as it relates to the city's  
6 historical districts, you believe the data shows  
7 that the city is racially segregated along district  
8 lines. Is that fair?

9           A. Yes.

10          Q. And in the course of this -- your work on  
11 this litigation, you've not been asked to look at  
12 any of the plaintiffs' plans for the purposes of  
13 issuing opinions. Correct?

14          A. I was given one of plaintiffs' proposed  
15 plans, but I did not look at it. I was given the  
16 option to look at it. But I did not.

17          Q. Why didn't you want to look at their  
18 proposed plan?

19          A. It was outside the scope of what the  
20 directives were.

21          Q. If their three plans had super majority  
22 Hispanic districts and a district that would perform  
23 for a Black district similar to District 5, would  
24 you agree that that is a racially segregated plan as  
25 well?

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1           A. If the -- if the districts looked as  
2 similar -- you know, if the districts looked as  
3 similar to what they look like now under the various  
4 plans, if they did in '97, 2003, and 2013, then yes,  
5 the districts are racially drawn. Racially  
6 segregated.

7           Q. And when you say if they look, are you  
8 referring to a visual depiction or are you referring  
9 to what the data actually says?

10          A. Both. The visual depiction is part of the  
11 data, but yes.

12          Q. On page 12, at the bottom you say, further  
13 Precinct 989, 78 percent Trump was moved in its  
14 entirety from District 1 into District 3. In  
15 exchange most of the less Republican precincts, and  
16 you reference 997 and 971, were added to District 1  
17 from Districts 3 and 4. These movements suggest that  
18 enhancing Republican advantage in District 1 was not  
19 a motivation behind the map.

20           Would you agree that both precincts  
21 supported Trump based upon your numbers?

22          A. Which precincts are you referring to?

23          Q. 997 and 971.

24          A. Over 50 percent Trump. Yes.

25          Q. So you're certainly not doing damage to

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1 District 1 if you were trying to draw a Republican  
2 district. Correct?

3 A. The claim is that -- the claim that I'm  
4 addressing is that they are shoring up the  
5 Republican advantage. Not maintaining Republican  
6 control or a Republican majority, but that they are  
7 shoring up the percentages of their Republican  
8 voters.

9 Q. What is -- what is your understanding of  
10 what the city commission's partisan goals were?

11 A. I don't know what the city commission's  
12 partisan goals were.

13 Q. Okay. You address partisanship in both of  
14 your reports. What were you told related to your  
15 work on that particular aspect of your report?

16 A. I was asked to address the alternative  
17 explanation that these districts were drawn and  
18 changed in such ways as to shore up partisan support  
19 within the district core.

20 Q. Did they provide any context for that?

21 A. No.

22 Q. So if the city adhered to a particular  
23 configuration of Districts 1, 3, and 4 --

24 A. Sorry. You cut out. I couldn't hear you.

25 Q. So if the city adhered to a particular

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1 configuration of Districts 1, 3, and 4 that split  
2 one of the western parts of the county -- I'm sorry.  
3 Western parts of the city, that's not something that  
4 you would have any knowledge of? That's not  
5 something that factored into any of your analyses of  
6 the maps that you reviewed. Correct?

7 A. No. No knowledge of that.

8 MR. LEVESQUE: Dr. Abbott, that's all  
9 the questions that I have right now.

10 MR. MERKEN: I just have a few,  
11 George.

12 CROSS-EXAMINATION

13 BY MR. MERKEN:

14 Q. Dr. Abbott, were you shown any of  
15 plaintiffs' maps during this deposition?

16 A. During the deposition, no.

17 Q. Had you performed any analysis of any of  
18 the plaintiffs' proposed plans before today?

19 A. No.

20 Q. Was any testimony today about any of the  
21 plaintiffs proposed maps purely speculative?

22 A. Yes.

23 Q. The city commission elections are  
24 nonpartisan?

25 A. Yes.

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1           Q.   Was any part of either of your two reports  
2 based on whether a district -- whether a commission  
3 district would elect candidates of a certain race?

4           A.   No.

5           Q.   You testified about conclusions you drew  
6 in your second report, the report dated July 5th,  
7 2023. Do you remember that testimony?

8           A.   Yes.

9           Q.   On page 13 of that report there is a  
10 section labeled conclusion. And I'm going to read  
11 that in its entirety and just let me know if this is  
12 an accurate reading of this. You write, quote, the  
13 city's proposed remedy, Resolution 23-271, for the  
14 Miami city commission has not been substantially  
15 changed from the enjoined plan. The changes that  
16 have occurred appear to continue to be designed  
17 around racial and ethnic considerations. There is no  
18 basis on which to make the argument that these  
19 considerations were instead partisan in nature.

20           Did I accurately read your conclusion?

21           A.   Yes.

22           Q.   Is that your conclusion about the changes  
23 between the 2023 map and the 2022 map?

24           A.   Yes.

25           MR. MERKEN: Nothing further.

1                   MR. LEVESQUE: Okay. I have a few  
2                   follow-ups. Actually probably more than a  
3                   few to respond to that last question.

4                   REDIRECT EXAMINATION

5                   BY MR. LEVESQUE:

6                   Q. Dr. Abbott, related to the 2023 plan, and  
7                   your opinion that it continues to reflect a racial  
8                   gerrymander, that would also be true because it's  
9                   your opinion that the 1997 plan, the 2003 plan, and  
10                  the 2013 plan represent racially segregated  
11                  districts. Correct?

12                  A. Yes.

13                  Q. And so any map that has super majority  
14                  Hispanic districts above 80 percent in number, any  
15                  map that has a Black voting age population within  
16                  two or three percentage points of 50 percent that  
17                  would reliably perform for a Black candidate are  
18                  going to be racially segregated districts in your  
19                  view. Correct?

20                  A. Not necessarily.

21                  Q. What are the circumstances where three  
22                  super majority Hispanic districts stand in either an  
23                  almost majority or majority Black district not be  
24                  racially segregated?

25                  A. I would have to look at the map to make

1 that conclusion.

2 Q. Okay. Dr. Abbott, that is plaintiffs'  
3 alternative plan 1 that was presented in this  
4 litigation. That's not a map that you've analyzed as  
5 part of your work in this case. Correct?

6 A. No. Correct.

7 Q. And I'll represent to you that Districts  
8 1, 3, and 4 in that map have Hispanic voting age  
9 populations of 70.1 percent, 90.8 percent, and  
10 95 percent. And they have a Black voting age  
11 population for District 5 at 45.2 percent. Given  
12 those statistics, would it be your opinion that that  
13 is a racially segregated map?

14 A. I would have to do more analysis. I don't  
15 feel comfortable responding to that question.

16 Q. Okay. What more analysis would you need to  
17 do?

18 A. I would need to look at the boundaries and  
19 understand how the districts were drawn.

20 Q. Well, you didn't do --

21 A. And the white voting age population.

22 Q. You didn't do a boundary analysis for the  
23 1997 plan or the 2003 plan or the 2013 plan to reach  
24 the conclusion that those maps were racially  
25 segregated districts. Correct?

1           A. I did a visual inspection of how they  
2 looked compared to the 2013 and the 2022 map and,  
3 given my analysis of those maps, concluded that they  
4 were very similar.

5           Q. But you came in with the conclusion that  
6 the five districts were already racially segregated  
7 because of the 1997 plan, the 2003 plan, and even  
8 the 2013 plan. Did I not understand that correctly?

9           A. Well, I didn't come into this assuming  
10 that. I compared them to the current -- to the 2013  
11 and the 2022 plan.

12          Q. Well, in the opening statement of your  
13 first report you say, the enacted Miami city  
14 commission districting plan is the byproduct of many  
15 decades of racialized commission plans. That would  
16 seem to imply that the 2022 plan didn't make the  
17 other plans racially racialized, it followed in the  
18 footsteps of racialized commission plans. Correct?

19          A. Correct.

20          Q. And you didn't do a boundary analysis or  
21 even an analysis of what the populations were in any  
22 of the districts or the city as a whole related to  
23 either the '97, the 2003, or the 2013 plan. Correct?

24          A. I looked at how similar the maps were to  
25 the current plans -- to the more recent plans.

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1 Q. But you didn't do the boundary analysis  
2 that you just referenced, did you?

3 A. To the '97 and 2003 plans?

4 Q. Or the 2013 plan?

5 A. I did not do a boundary analysis on the  
6 earlier plans.

7 Q. But you still reached the conclusion that  
8 they were racialized commission maps. Correct?

9 A. Yes.

10 Q. And you did that simply because they had  
11 large segments of minority population in one  
12 district. Correct?

13 A. No. I did that because they looked very  
14 similar to the 2022 and the 2013 maps.

15 Q. So you -- just so I understand, then, you  
16 reached the conclusion that the 1997 plan and the  
17 2003 plan and the 2013 plan were racialized maps  
18 because they looked similar to the 2022 plan that  
19 you analyzed?

20 A. There were very few changes over the  
21 years.

22 Q. Okay. Give me one more second. Dr. Abbott,  
23 I'm going to represent to you that that is  
24 plaintiffs' map 4 that was filed in this litigation  
25 as an alternative remedy. Have you seen this map

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1 before at all?

2 A. I have not.

3 Q. You were not asked to do any type of  
4 analysis on this map. Correct?

5 A. I was not.

6 Q. Generally speaking, if you've got the 2023  
7 plan available to you, would you agree that  
8 District 2 and District 5 visually are similar to  
9 what is reflected in the 2023 plan?

10 A. They look different to me.

11 Q. Okay. What is different about them?

12 A. There are different portions of District 5  
13 that look to have been moved into District 1 in the  
14 2023 plan.

15 Q. Are they large areas that significantly  
16 revamp the configuration of that district?

17 A. I don't know. I haven't done the  
18 analysis.

19 Q. Do you know if the population figures are  
20 substantially similar?

21 A. I don't know, but I know -- I can see from  
22 this map on page 3 that the part of District 5 that  
23 is in District 1 in the plaintiffs' map is downtown  
24 so --

25 Q. Do you also notice a difference in the

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1 configuration of District 1 and District 4?

2 A. Yes.

3 Q. You've examined the historical plans in  
4 the 2022 and the 2023 plan. Are you aware of any of  
5 those plans that configure Districts 1, 3, or 4 in  
6 that manner?

7 A. I don't know. I don't have them in front  
8 of me.

9 Q. Dr. Abott, do you recognize that plan?

10 A. It says the 1997 plan.

11 Q. Does that look like the 1997 plan that you  
12 reviewed?

13 A. I believe so.

14 Q. And does that plan draw District 4  
15 entirely within the western part of the city's  
16 boundaries?

17 A. What do you mean the western part?

18 Q. This area here (indicating). There is an  
19 area called Flagami.

20 A. Yes.

21 Q. Is District 4 entirely in that area or is  
22 it split between Districts 1 and 4?

23 A. There is a portion of District 1 that's on  
24 top of District 4 towards the west, but I don't know  
25 about Flagami specifically.

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1           Q.    Okay. No one has ever discussed Flagami  
2 with you in terms of the analysis of the plans, have  
3 they?

4           A.    No.

5           Q.    As part of your analysis, you've not done  
6 any research or issued any opinions or conclusions  
7 about neighborhoods and keeping them whole, have  
8 you?

9           A.    No. Other than Overtown.

10          Q.    As part of your analysis, you've not done  
11 anything to identify or assess voter cohesion, have  
12 you?

13          A.    No.

14                MR. LEVESQUE: That's all at this  
15 time.

16                MR. MERKEN: All right. We're all  
17 set. We will read.

18                MR. LEVESQUE: Okay. Madam Court  
19 Reporter, we'll order a copy.

20                (Defendant's Exhibit 1, Report, was  
21 marked for Identification.)

22  
23                (Thereupon, the taking of the deposition was  
24 concluded at 1:29 p.m.)

25                (Signature and formalities were not waived.)

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1 Christopher Merken, Esquire  
christopher.merken@dechert.com

2

(October 27th, 2023

3

RE: Grace, Inc., et al v. City of Miami  
4 October 16th, 2023-Dr. Carolyn Abbott

5

The above-referenced transcript is available  
6 for review.

7 The witness should read the testimony to  
8 verify its accuracy. If there are any changes,  
9 the witness should note those with the reason  
10 on the attached errata sheet.

11 The witness should, please, date and sign the  
12 errata sheet and e-mail to the deposing attorney as  
13 well as to Veritext at Transcripts-fl@veritext.com  
14 and copies will be e-mailed to all ordering parties.

15 It is suggested that the completed errata be  
16 returned 30 days from receipt of testimony, as  
17 considered reasonable under Federal rules\*.  
18 However, there is no Florida statute to this regard.

19 If the witness fails to do so, the transcript  
20 may be used as if signed.

21 Yours,

22

23 Veritext Legal Solutions

24 \*Federal Civil Procedure Rule 30(e)/Florida Civil  
25 Procedure Rule 1.310(e).

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1 Grace, Inc., et al v. City of Miami

2 October 16th, 2023-Dr. Carolyn Abott

3 E R R A T A S H E E T

4 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

5 \_\_\_\_\_

6 REASON \_\_\_\_\_

7 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

8 \_\_\_\_\_

9 REASON \_\_\_\_\_

10 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

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12 REASON \_\_\_\_\_

13 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

14 \_\_\_\_\_

15 REASON \_\_\_\_\_

16 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

17 \_\_\_\_\_

18 REASON \_\_\_\_\_

19 \_\_\_\_\_

20 Under penalties of perjury, I declare that I  
21 have read the foregoing document and that the facts  
22 Stated in it are true.

23 \_\_\_\_\_

24 \_\_\_\_\_

25 DR. CAROLYN ABOTT

DATE

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1 CERTIFICATE OF OATH  
2 (VIDEOCONFERENCE PROCEEDINGS)  
3 STATE OF FLORIDA )  
4 COUNTY OF MIAMI-DADE )

5 I, Mayra Texeira, Court Reporter and Notary  
6 Public in and for the State of Florida at Large,  
7 certify that the witness, DR. CAROLYN ABOTT,  
8 appeared before me via videoconference on  
9 October 16th, 2023 and was duly sworn by me.

10  
11 Signed this 27th day of October, 2023.  
12  
13  
14

15   
16

17 \_\_\_\_\_  
18 MAYRA TEXEIRA, Court Reporter  
19 Notary Public - State of Florida  
20 COMMISSION NO. HH 12099  
21 EXPIRES JUNE 26, 2024  
22  
23

24 Personally known \_\_\_\_\_  
25 OR Produced Identification X  
Type of Identification Produced NY DL

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1 CERTIFICATE OF REPORTER

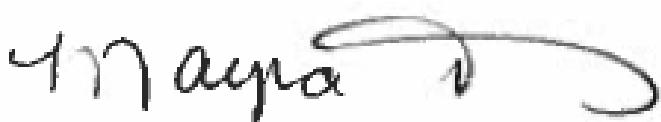
2 STATE OF FLORIDA )

3 COUNTY OF MIAMI-DADE )

4 I, MAYRA TEXEIRA, Court Reporter, do hereby  
5 certify that I was authorized to and did  
6 stenographically report the videoconference  
7 deposition of DR. CAROLYN ABOTT; that a review of  
8 the transcript was not waived; and that the  
9 foregoing transcript, pages 1 through 123, is a true  
10 and complete record of my stenographic notes.

11 I FURTHER CERTIFY that I am not a relative,  
12 employee, attorney or counsel of any of the parties,  
13 nor am I a relative or employee of any of the  
14 parties' attorney or counsel connected with the  
15 action, nor am I financially interested in the  
16 action.

17 Dated this 27th day of October, 2023.

18  
19   
20

21 MAYRA TEXEIRA, Court Reporter

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

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Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at [www.veritext.com](http://www.veritext.com).